

PATRIARCHA:
OR THE
Natural Power
OF
KINGS.

BY THE
Learned Sir *Robert Filmer* Baronet.

The Second Edition.

CORRECTED

According to the Original Manuscript of
the Author, out of which in several
places many large Additions are made,
amounting in the whole to ten Pages,
and many mistakes rectified.

To which is added,
A Preface to the Reader in which this Piece
is vindicated from the Cavils and
Misconstructions of the Author of a
Book stiled *Patriarcha non Monarcha*.

AND ALSO

Tu
A Conclusion or Postscript

By *Edmund Bohun* Esq.

LONDON,

Printed for *R. Chiswel, W. Hensman, M. G. Wells,*
and *G. Wells.* 1685.

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TO THE
Most Noble and Illustrious
HENRY

Duke of Beaufort;

Marquess and Earl of Worcester; Lord
Herbert of Ragland, Chepstow, and
Gower; Lord President of Wales;
Knight of the most Noble Order of
the Garter; and one of the Lords of
his Majesties most Honourable Privy
Council.

May it please Your Grace,



Though I am not so happy
as to be known to you, yet
I have presumed to set your
Name before these small
Discourses; believing that as they are
in the main the Sentiments of you

A 2

Loyal

The Epistle

*Loyal and Generous Soul ; so they will
not be unacceptable to you.*

Sir Robert Filmar Baronet was
one of the most Learned and Loyal
Gentlemen of the last Age, who dared
to be true to the Crown when his
fidelity could entitle him to nothing but
the Glory of Living and Dying a good
Subject with the hazard of his Life
and Fortunes.

Whilst others with their Swords
defended that most illustrious Martyr
Charles the First ; He with no less
Danger espoused the quarrel, and
maintained the Antiquity and Excellence
of Monarchy against the Pretences
of the Republican Writers of those
times, with such strength of Argument
and variety both of Ancient and Mo-
dern Learning that he baff'd all the
shews of Reason they were able to
produce

Dedicatory.

produce against this first and best form
of Government.

But then, my Lord, this Piece
(which was one of the best he wrote
on this Subject,) was never published
in his Life time, but passed from hand
to hand in Manuscript till the year
1680. By which time it was so
corrupted that it scarce deserved to
wear his Name, being not only
wretchedly mistranscribed, but strangely
mutilated, and yet after all these
injuries it met with a general esteem
amongst Learned and Loyal men,
and I am in Great hope this perfect
and entire Copy will not be less
acceptable.

But then as it acquired the Regard
of Loyal men, so it excited the
envy and hatred of another sort, two
of which undertook the confutation of
it.

The Epistle

it: against both which I have endeavoured to defend it. And although I am but a mean Advocate, yet I hope the goodness of the Cause, and the Excellence of my Leader, will so far supply the defects of my management as to make the victory sure on the behalf of Regal Government.

But what ever my performances are it was only the Loyalty of them that made me presume to offer them to your Grace, who have been so eminently such, that it drew upon you at once the Hatred of the Faction, and the Love and Value of your Prince, our Late most Excellent Sovereign CHARLES the Second, and of all truly Loyal English men.

Now is Your Grace in less Esteem with our present Dread Sovereign JAMES the Second; who can
never

Dedicatory.

never forget what you did and suffered for him in the worst of times, for the securing his Undoubted Right to the Throne of his Ancestors, by which you merited these Votes the seventh of January 1680. Resolved that an humble Address be presented to his Majesty, to remove Henry Marquis of Worcester from his presence and Councils, and all Offices and Employments of Honour and Profit for ever. For which they subjoyn this Reason; Resolved that it is the opinion of this House that Henry Marquis of Worcester is one of the Persons who advised his Majesty in his last Message to this House, to insist upon an Opinion against the Bill for Excluding the Duke of York, and hath therein given Pernicious Counsel to his Majesty, and is a promoter of Popery, and an Enemy to the King and Kingdom.

Which

The Epistle, &c.

Which Resolves will make your name Venerable in after times. And as this has been the occasion of a deserved Addition to your Honours; so it will ever be esteemed by Posterity as the most Illustrious Action of your Life.

These (may it please your Grace) were the Causes that moved me to make this Address with the utmost degree of submission and respect, in hopes you would smile upon this small Present, and admit me amongst the number of my Lord

June 1.
1685.

Your Graces

Most dutiful and


Most devoted Servants

Edmund Bohun.

THE
PREFACE
TO THE
READER,

In which

SIR ROBERT FILMAR'S *Patriarcha*,
is vindicated from the Cavils and
Misconstructions of the Author of a
Piece stiled *Patriarcha non Monarcha*;
and an Account given of this present
Edition.

- i.  HIS Piece of Sir Robert Fil-
mar was not Printed in the
time of his Life as most of
the other, tho without his
Name, but some Copies of it being
gain'd in the year 1680. it was printed
(a) from

The Preface

from one of those which was an imperfect and corrupt Transcript; whereupon a person of Honour having obtained the Original Manuscript from Sir Robert's Son and Heir, by it corrected his own, and afterwards was pleased to give me the liberty of Correcting this which is here published, by his, which I accordingly did with all the care I could possibly. So that this may now be attested for the true, perfect and genuine work of that Learned Gentleman.

2. Besides the many great mistakes in the Text, and the leaving out the Quotations many times in the Margin. There were several whole Paragraphs left out in two or three places, and in other some lines inserted which were not in the Original Manuscript, all which are now rectified.

3. Tho one would have thought after his Majesty had been in peaceable possession of the Throne of his Ancestours twenty years, this Loyal Discourse might not onely without opposition, but with applause have seen the light (which could not be expected in the Life of the
Author

to the Reader.

Author who died before his Majesty was restored,) yet no sooner did it appear in the World, but it gave such an Alarm to our Loyal Commonwealthsmen, that there were several Pens at work to traduce and defame both the Author (though dead) and the Book too, and amongst these the very next year comes out this which I am now going to examine under the Title of *Patriarcha non Monarcha*.

4. Well, but what was it that thus frightened them? This Gentleman will tell us that: *Short Treatises* (saith he) of this kind, written in a genteele Stile, and a formal appearance of Law and Reason do more mischief amongst young men, and those who have not leisure to look much into the grounds of this Controversy than tedious Volumes. So it was the Stile, the Law, the Reason, the Brevity of it; that brought those throes upon them.

5. But yet there was another thing too, and that was the timing of it; 1680 was a year that could least brook this sort of Tractates of all other. We may well enough remember what extravagant

(a 2) hopes

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hopes some Men then had that there was a Change at Hand, and that the Commonwealth of *England* might take another turn upon the Stage. And this Piece was not to be indured in such a Crisis of Affairs: but all the ways imaginable were to be made use of to cry it down, and make the people believe *Sir Robert Filmar* was for An *Absolute Monarchy* *Jure divino*, so that no other Government can be lawfully exercised, nor the least limitations set to it, without *Sacriledg*, and diminution of that Sovereignty which is derived from no less an Original than God himself. Now suppose all this had been true as it is not, what then? *England* is under a Monarchy, and has been so beyond the memory of all Records, and it is an Imperial Monarchy too, depending upon none but God Almighty. Nor can any Power upon Earth set the least limitation to it against the Consent of the Proper Monarch for the time being, without Treason, and Rebellion, and perjury; and if he please *Sacriledg* too. For I think his Majesties Rights are Sacred, as well as his Person, and what inconvenience can follow upon all this? Why then
England

to the Reader.

England must continue a Monarchy to the end of the World: or they that go about to alter it will be Rebels and Traitors.

6. But this Gentleman goes on and tells us, that Sir R. F. *denies that Princes can ever be obliged by any Fundamental, or after Contracts, or Concessions, or by any Coronation Oaths, to abstain from the Lives, Liberties and Properties of their Subjects farther than they themselves shall think it convenient; so that there can be no such thing in Nature as a Tyrant.* I will not trouble the Reader so far as to Confute all this by Transcribing Sir R. F's words to the contrary; but if he please to compare the places quoted in the Margin with these Assertions, he will have cause to commend this Gentleman's *Craft*, though not his Ingenuity in giving his Reader an Abridgment of the Book; for indeed it was not safe to trust him with it, after he had taken this Liberty.

Patriarcha, p. 6. pag. 97.

7. The truth is, Sir R. F. asserts two things: First, that no Prince is, or is intended to be so bound up by his Co-

The Preface

ronation Oath as not to have a Power left him of Consulting the Good of his Subjects and his own preservation notwithstanding his Oath. And secondly, that if he breaks his Oath, and Acts against his Laws he is not responsible to, or punishable by his Subjects. For if by Tyranny he should forfeit his Crown, it does not Escheat to the People, but to God who is the sole Disposer of Kingdoms, and punisher of Princes.

8. Now this is that Doctrine that the Enemies of Monarchy are so enraged at, what shall a Prince be free from all Correction till God Almighty is pleased to Chastise him? Must I sit still and suffer my throat to be cut, my Estate ruined, my Wife ravished, and not dare in any case to defend my self till God is pleased to interpose, and that in an Age in which Miracles are Ceased? God is for the most part pleased too to respite the punishment of Oppressors till the next World, and if I be ruined in this, what comfort is it to me or mine, that the injury shall be punished when I shall reap no Advantage by it?

9. Now

to the Reader.

9. Now suppose all this were just as it is stated; If the injuries a Man suffer are insupportable under any Government he may Petition for Relief, and in all probability find it; if not he may fly into another Country for succour, if he cannot do that neither, he will scarce be able to resist. So that if it were never *so* justifiable it could be of no use to any such miserable Men; for no Prince though never so ill-natured, will attempt any such thing against any such number of Men as are in a capacity of Revenging the Wrong done them when they will, *only out of hopes* they will not because they ought not, nor will the History of all Ages put together afford one instance of a Monarch that ever injured any Man at this rate whom he believed able (if willing) to revenge the wrong, but that he took care as far as he could to prevent it, and either to take him out of the Way or to put him out of a possibility of a retaliation. So that all this discontented fretful Rhetorick is of no use in any such Case.

(a 4)

X. But

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10. But then on the Contrary, if every Ambitious and factious Man might be left at liberty to insinuate into the Rabble and the Great and little Vulgar, *that Princes are to be punished when they do amiss. That they are bound to Act according to Laws, and to their Oaths, and if they no otherwise are presently to be treated as Tyrants and the common Enemies of mankind. That it is lawful for a Man to defend himself against the injustice and oppression of his Prince, &c.* This can onely serve to fill the World with Rebellions, Wars, and Confusions, in which more thousands of Men and Estates must of necessity be ruined, and Wives Ravished and murdered in the space of a few days, than can be destroyed by the worst Tyrant that ever trod upon the Earth amongst his own Subjects in the space of many years, or of a whole life.

11. And suppose the Subjects of such a Prince should succeed in their Rebellion and prevail against him, they must then submit to another Prince of whom they have no assurance they shall be better

to the Reader.

ter treated; and if they set up many, they are all Men and subject to be corrupted by Power and Greatness. And in an Anarchy every Man will become a Tyrant to his Neighbour. So that this Doctrine of curbing and resisting Princes is calculated for the Ruin of mankind, and tends to no bodies good but theirs, who design thereby to gain a Power of Doing to others what they pretend to fear. And when all is done, the punishment of Princes who abuse their Power, must be left to God Almighty, who onely can and will punish his own Ministers.

12. And whereas this Gentleman pretends, that according to Sir R. P's principles, *let what change will come they (all Subjects) are sure to be not better than Slaves, as may be seen in all Absolute Monarchies from France to China*, I say this is false. For according to Sir R's principles, Princes are bound to treat their Subjects as their Children. And it is not the Nature of mankind to make their offspring *Slaves*. And yet when all is done there were more *Clamors of Arbitrary Government, Tyranny*

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ny and Slavery here in *England*, between 78. and 82. and between 38. and 48. than in all the absolute Monarchies between *France* and *China*, and the South and North Pole, from the Creation of the World to this day. And it is very remarkable, that when *Oliver Cromwel* set up the most absolute and Tyrannical Government that ever was in this Island, there was yet no noise of any fears or jealousies of it in all his times, and after his late Majesty happily became Master of *London*, and the Course of the Law, became open against factious and disloyal Men, the noise abated. So that this is a Cry that is never to be heard but when there is no Cause, or when the Enemies of the Government hope to do their business by it, and when ever the Multitude are thus Alarm'd, 'tis with design to enrage them that they may throw off their lawful Governours, that these new Upstarts may get up and ride them.

13. My Reader may be pleased to consider that I am now writing onely a kind of Preface to a small Book, and that all these things have at large been dis-

to the Reader.

discourf by others; and fo not wonder that I pafs by many things in this Preface which I would otherwife have replied to: and endeavour to be as concise as I can poffible in what I take notice of.

14. Sir *R. F.* hath undertaken to confute this Maxim, That all mankind is naturally endowed and born with freedom from all Subjection, and at liberty to chufe what Form of Government it pleafe: and that the Power which any one Man hath over others, was at firft beftowed according to the difcretion of the Multitude. *Patriarchia, p. 6.*

15. In order to this he leads us up to the Fountain-head, and fhews us that *Adam* who was the Father of Mankind was a Prince, and tells us from *Bellarmino*, That if many Men had been together created out of the Earth, they all ought to have been Princes over their pofterity. Thus far *Bellarmino*. And hence Sir *R.* infers thus: *In thefe words we have an evident confeffion, that Creation made Man Prince of his Pofterity.* pag. 11.

To

The Preface

16. To this our Author replies, That he would be glad to know where and how God hath given this absolute power to Fathers over their Children, and by what Laws Children are tied to an absolute Subjection or Servitude to their Parents. — I see no divine Charter in Scripture of any such absolute-despotick Power granted to Adam or any other Father. You may see in what a Chase the Man is by his Language,

17. To better his fight a little I desire two or three things may be granted me.

1. Man coming naked and helpless into the World, and having need of many things for his well-being in it, *can* not subsist well but in Society.

2. Man being a Creature very sensible of his Wants and desirous to have them supplied by others, is not able to attain this but by Government:

3. That all this was known to God before he made Man:

4. That

to the Reader.

4. That no Government can be maintained where the party governed hath a right to resist his Superiour or Governour.

5. And now let us see what beginning God gave to this Creature, and from thence learn what his pleasure was, and how he should be ordered after he had a Being.

18. Now if God had first created in one or more places ten pair of Men and Women, and then brought them all at once into the Garden of *Eden*, it would not have been possible to have assigned any reason why any one of these Men or Women should have taken upon them to have governed the rest, except God had pleased to have declared his Will and pleasure that they should have submitted to one, or five, or three, or any other Number, or that they should have governed by turns; and yet it was not possible for these ten couple to have continued long together without any Government.

And

The Preface

19. And yet *Bellarmino* supposeth every one of these ten pairs would have had a right to govern his own Children, which must imply so much power as was necessary to keep his Family in Order, and to protect it from injury.

20. Now I say, that if *Adam* and *Eve* had been both created at once, it could not have been known which of these two were to command, and which to obey. For *Adam's* strength would have given him no Authority, and it may be *Eve* was as strong and as wise, or at least might have thought her self so, and if these two had differed, no mortal can tell which in the conclusion might have been Master.

21. And when they had Children betwixt them; the Children could as little have told which of the Parents they should have obeyed in case of a difference betwixt them two. So that it had not been possible this way that any Government should have been in the World.

But

to the Reader.

22. But when God created onely one Man, and out of him one Woman was made; he had some design in this. For there was never another Creature that was created single and made at twice but Man.

23. *Josephus* tells us, that when *Adam* took a view of all the Creatures and gave them a Name; He admired to see that all the rest were in pairs *male* and *female*, and that he onely should have no female belonging to him, he did not understand the reason of it, but was very sensible he was defective in that.

Ελπίων δὲ τὸν ἄνθρωπον ὅτι ἔχοντα καὶ γυναῖκα πρὸς τὸ ἅλναι καὶ συμπροϋπατάειν, καὶ ὅτι οὐκ ἔστιν ἄλλος ὅμοιος οὕτως ἔχοντα, *Jose. Antiq. l. i. c. 2.*

24. Now certainly there was a reason for it, and *St Paul* gives us it: when he tells us the Woman should not Teach nor usurp Authority over the Man, but be in silence: Ἀδὰμ γὰρ πρῶτος ἐκτίσθη, ὡς καὶ Ἐυὰ. For *Adam* was first formed, and then *Eve*. So in the Apostles judgment this was one Reason why *Adam* should be superiour to his Wife, and all other Husbands to their Wives:
Nay,

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Nay, the Apostle here runs it yet higher, and in the Church, for this Cause sets the whole *male* Sex above the Female; and for ever excluded them from having any share in the Christian Priesthood.

25. And in another place from the History of the Creation he deduceth two other Reasons for the superiority of the Man above the Woman; For the Man is not of the Woman, but the Woman of the Man, that is, *Eve* was formed out of *Adam*; Neither was the Man created for the Woman, but the Woman for the Man.

So that before the Fall, or any command given her by God she was made in a state of subjection to her Husband, and he very well understood it when he gave her a Name, which was a mark of his Sovereignty and

* ἡ γυνὴ ἡμιλλαν τὴν αὐτὴν διακονεῖσαν παρα-
υπόταται, ποιεῖ (ὁ Θεός)
ὑποτάτῃ ὡς δε-
σποτῇ, ὡς καὶ ἡ ἐκκλησία, ἡ σώματος, μόνος καὶ σωτὴρ. Scut-
erianus de creatione, p. 269. c.

26. Well, here is *Adam* then stated in a degree of Superiority before the fall, and

to the Reader.

and immediately after it God again renews *Adams Title* when he told *Eve*; Thy desire shall be (*subject*) to thy *Gen. 3. 16.* Husband, and he shall Rule over thee. Now to me it seems probable, that if the fall had not disordered Her faculties, and made her more apt to disobey her Husband, than she was in her state of Innocency and integrity, this Command had never been given her, but she should have been left to have learned her duty from the Order and End of her Creation without this explicit positive Commandment.

27. Our learned Author Observes two things upon this place: First, *All Expositors* (*saith he*) *look upon these words as respecting onely a Conjugal and not a filial Subjection. Neither were they spoke in the state of Nature or Innocency, but after the fall.* Page 13.

2. As to the first of these, I do not know nor much care what Expositors he consulted, nor how much the Conjugal Subjection differed from the Filial, but I am sure God used the same Expression to *Cain* concerning his younger Brother,
(b) ther,

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Gen. 4. 7. ther, Unto thee shall his desire be (subject) and thou shalt rule over him. Surely God never intended that *Abel* should yield a conjugal but a filial subjection to his Elder Brother. And these words are not capable of two several senses, but must be understood alike in both places that the Desire, which is a faculty of the Soul, and the most active too was to be subject, and the Body and all the powers of it were to be *Ruled Over*: which is an absolute, entire subjection, if it be possible to express it in words.

3. And whereas he saith this was not spoken till after the fall, and thence seems to infer, that *Eve* did not owe *Adam* so much as a Conjugal Subjection before the fall; *St. Paul* hath answered that before. And now let the World judg if this Gentleman be not an excellent friend to Government, and a Doughty Champion to undeceive *Unthinking Country Gentlemen and Wind-blown Theologues*, as with insolence enough he writes in his Preface.

Well

to the Reader.

28. Well then, let us drive the Argument a little further. *Adam* we see was not onely created to be, but declared the Lord and Sovereign of his Wife. And now when they two had produced a numerous family of Children, in what State were they? why, our Author tells us they were bound to obey their Parents in *all things Reasonable and lawful.* Page 301

1. Well, But who was to be judg of that? Why page 24. he tells us that in the state of Nature Children were not *hindred from judging of the Reasonableness or lawfulness of their Parents Commands.*

2. Well, But suppose they and their Parents could not agree what was *Reasonable and Lawful*, but the Father was resolved the Son should yield, and thereupon began to offer violence and force his Son; why he tells us, *That though it is true a Father in the state of Nature, and considered as the Head of a separate Family hath no Superiour but God, and consequently no other person whatsoever hath any Authority or Right to call him to an account, and punish him*

(b 2)

for

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for his abuse of his paternal Power, yet it doth not follow that such absolute submission is there fore due from the Children as does oblige them to an active or passive Obedience in all cases to the Father's will, so that they neither may nor ought to defend themselves in any circumstance whatsoever. There is a great deal of difference (in the state of Nature) between calling a man to an Account as a Superiour, and defending himself as an Equal. For a man hath a right in this state to defend himself against all men that assault him, by the principle of self preservation. And a little after the Son thus resisting his Father, doth not act as his Father's Superiour but as his Equal: as (saith he) the Son indeed is in all the rights of Nature considered only as a Man. And if the Son kill his Father in his own defence; I think (saith he) his (the Father's) Bloud is upon his own head.

29. As for poor Adam he tells us, he was so far from having any power of Life and death over his own Children that he had it not over brute Creatures, because God did not give man a power to kill them

Page 11.

11.

to the Reader.

them for food till after the Flood: So that till the Flood neither he nor his Descendants had power to kill so much as a *Mouſe* in any caſe whatſoever, nay I much doubt whether he durſt cruſh a troubleſome Fly or Gnat. And yet he tell us within a few lines, That it was 1. a Law of Nature then, that Murder Page 11.
was to be puniſhed. 2. That this Right of Punishing did not belong to *Adam* as a Father alone — &c. but to every one that met him: 'From whence, ſaith he, 'it follows, that if *Adam* had no more 'Right to take away his Sons Life for the 'murder of his Brother (which is one of 'the greateſt offences he could commit) 'than any other of his Brethren or Kin- 'men; there is no reaſon why he ſhould 'have it in any other Caſe.

30. To all which I anſwer, If ever any Family was in a ſtate of Nature; then *Adam* and his Children were in a ſtate of Nature. Now if it was the Will of God that things ſhould go at this rate of confuſion and diſorder; why did he create *Eve* after *Adam* and out of *Adam*, and after the fall why did he again ſubject her to her Husband, and declare that

(b 3)

the

The Preface

the Elder Brother should bear Rule over the younger? Wherefore was all this care taken but to teach Men to live in a due subordination to *Adam* in the first place, and after his decease to the next Elder Son of *Adam*.

31. It is a Law of Nature *Partus sequitur ventrem*; if *Eve* was subject to *Adam* by the Will of God, her Children were so too; for they could not in the life of the Father be in a better state than their Mother; and if filial Subjection be greater they owed him that though she did not. But the truth is, *Adam* having no Superiour but God, *Eve* owed him a filial Subjection as well as they.

32. There is another Rule in the Civil Law which is a Voice of Nature too, *Quicquid ex me & uxore mea nascitur in mea potestate est*; and though this is in some sense true in all Cases whatsoever, yet it is so in a more superlative sense, where the Father hath no Superiour over him but God, as *Adam* had not nor could have.

But

to the Reader.

33. But then if his Children had a liberty to judg of his Commands, whether they were not onely lawful but reasonable too, what could ensue but Anarchy and confusion? He tells us Page 21: that most of the Treatises concerning Paternal Authority or Filial Subjection, being commonly written by Fathers, they have been very full in setting forth their own power and Authority over their Children: but have said little or nothing of the Rights of Children in the state of Nature towards their Parents.

34. Now truly, I would advise this Gentleman never to marry, for fear his Children turn Rebels against him, and teach him by their Example how dangerous a thing it is to read Lectures of disobedience to Parents, in an Age in which Children without such Lectures are too too apt to rebel, and resist those to whom they owe both their Being and well-being in the World.

35. Well, But how shall a Child in any state become his Father's equal? Why, he tells us, *That in the state of Nature a*

(b 4)

Son

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Son considered onely as a Man, is equal to his Father in all the rights of Nature. Now if this be not *nonsense*, then is there no such thing as Nonsense; why a Son, consider him how you can or will is a Son still, and as a Son is subject to his Father, and most of all in a state of Nature, that is before Civil Laws have restrained the Paternal Power.

36. I believe it will pose this Gentleman to shew any other Original of Paternal Power than this that God gave *Adam over Eve*, who indeed was as the first Subject, so the Representative of all that followed, and it reaches not onely to all her Daughters in relation to their Husbands, but to all them in relation to their Fathers, and to her Sons too in relation to both their Father and their eldest Brother after his decease, if no body superiour to both them and him interposed and diverted it or rather over-ruled it.

37. For if a priority of Being gave *Adam* a power over his Wife, it gave him much more so over his Children.

aldy, If

to the Reader.

2dly, If Gods taking *Eve* out of *Adam*, the forming her of one of his Ribs without his concurrence, did yet make her his inferiour, his Children were much more so, which were derived from him and by his Act.

3dly, If she were formed for him, not he for her; and that was another reason; this extended to his Children too, who were begotten for the comfort and assistance of both him and her.

4thly, When God put *Eve* under the subjection of her Husband after the fall, her Children must needs be so too if they were not excepted; but we read of no Exception.

5thly, Is it not an Eternal Law of Nature that all Children should be subject to their Parents? and did not this Law spread it self over the face of all the Earth as mankind encreased?

38. And whereas this Gentleman limits the Power of Parents over their Children both in its extent and duration, that is owing to the Civil Laws of Nations,

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Nations, and not to the Laws of Nature, and is different in different places; some having restrained the power of Parents more and some less. But God gave the Parents a Power of life and death over their own Children, amongst his own People, and that not limited in duration neither, for the Fathers power over his Son was not determined but by his death, though they could not execute that Power but in the presence of a Magistrate.

Luk. 3. 37. 39. *Adam* is stiled in Scripture *Gods* *son*, the Son of GOD, as indeed he was. Now let any rational Man consider with himself whether it be at all likely God should not endow this Son of his, the Father of Mankind, with so much Authority and Power as should enable him to Govern his own Family and Children, as long as he lived, without depending upon them for their consent, and chopping Logick with them, whether his Commands were reasonable or not; and if a power of Life and Death was necessary as the Murther of *Abel* by *Cain* shew it was, whether *Adam* had no more share in that Power than any

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any of his Children or Grandchildren had.

40. My Author tells me he cannot un- Page 11.
derstand how this Right derives it self from Page 12.
Adam. — for the right of Supreme Mo-
narch of the World descending upon the El-
dest Son of Adam, whom we will suppose to
have been Seth (since Cain might for-
feit his birth-right) this power of Life
and Death could onely be vested in the
Eldest Grandchild as descendant from Seth.

41. Now if we be but agreed thus
far that the Eldest Son of Adam had a
right after his Father, and so that this
Power did not die with him any more
than his Conjugal Power over his Wife
did. I shall easily shew him how it de-
scended to the rest of the Patriarchs,
without proving any one of them to
have been the lineal and immediate de-
scendant of Adam's Eldest Son or Grand-
child.

42. In the beginning of the World
there was not that Splendour, State and
Magnificence annexed to Principalities,
that there is now, and consequently
Men were less ambitious, of the honour
of

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of being Princes, which was a matter rather of care and trouble than of Advantage. When a Man was to work for his own Family in his youth, he seldom cared to aspire to the trouble of Governing others that were not his descendants in his old age; and besides all this, Mankind spreading apace, it is very probable *Adam* though he had a right did not actually Govern all his own descendants to the time of his death, but left them to the care and government of their more immediate Parents, with or near whom they lived, who by his permission and appointment had as good Authority to Govern under him as the *Deputy of Ireland* has by his Majesty's Authority, under him.

42. And when *Adam* died *Seth* was no ambitious, youngling, and therefore it is probable left things in the state he found them, without Aspiring to the Title or exercise of an universal Monarchy. * And so as Mankind encreased in the World, new Principalities or Patriarchats arose, from the same principles and causes, the People in the mean time

* Divisio-
nem Genti-
um & reg-
norum ali-
quam satū
indicare

to the Reader.

time having no more hand in Electing ^{temporum} their Governours ^{illorum su-} than of their Fathers. ^{perbi Gi-}
The Elect Son by force of the Divine ^{gantes,}
Decree in the case of *Abel* and *Cain*, ^{propter sci-}
succeeding the Father in every one of ^{entiam rei}
the distinct † Colonies, without usurp ^{militaris}
ing upon their Neighbour Colonies, or ^{memoria}
Aspiring to large Dominions. ^{commenda-}
^{ti: Bella}
^{eum inter}
^{diversas}
^{Gentes &}

de imperio maxime Gerantur. G. Fournier *Geographica Orbis No-*
titia. l. 1. c. 1. n. 3. Nor is it probable so much wickedness
should spread in the World without any resistance: or that resi-
stance should be made without Princes and Generals. † *Fines*
imperii tueri magis quam proferre, mos erat: intra suam cuique pa-
triam regna sinebantur. Justin. l. 1. c. 1.

44. If any Man thinks this unreason-
able, let him but reflect on the bitter
Complaint *Moses* made to God Al-
mighty: *Wherefore hast thou afflicted* Num. XL
thy Servant? and wherefore have I not 14.
found favour in thy sight, that thou laiest
the Burthen of all this people upon me?
Have I conceived all this people? Have
I begotten them, that thou shouldest say
unto me carry them in thy Bosom, as a
Nursing Father beareth the sucking Child.
In which words he intimates none but
a Father would willingly bear so great
a burthen, yet were they but a handful

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in comparison of the numerous posterity
Adam left at the time of his death.

45. That this was the state of Man-
kind at first was not unknown to the
Heathens, being convey'd down to them
by History or Tradition. For thus Sa-
luf describes the first rise of Mankind.
Initio Reges, &c.

† In the Invention
of Arts and Sciences,
Plin. Nat. H. l. 14.
Proem.

• Agriculture, Hunt-
ing, &c.

“ In the Beginning Kings (for that
“ was the first Government that arose
“ in the World) Exercised
“ some the faculties of the †
“ Mind, and others of the *
“ Body: and then also the
“ life of Man was led with-
“ out Ambition, every Man
“ Being well satisfied with what was his
“ own. But afterwards when *Cyrus* in
“ *Asia*, and the *Lacedaemonians* and *Athe-*
“ *nians* in Greece had begun the Con-
“ quest of Cities and Nations; then the
“ desire of Dominion became a cause of
“ War: and the Height of Glory was
“ measured by the extent and Greatness
“ of their Empires: and then and not
“ before experience taught the World
“ that Subtilty was of great use in War.
“ But

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" But if the Kings and Princes of the
" World had still pursued the Arts of
" Peace, as they have since cultivated
" those of War, the affairs of Mankind
" had been transacted with more Justice
" and Constancy; nor should we have
" seen things in that Hurry and Confu-
" sion, torn this way and that. For
" Empires might easily have been main-
" tained by those means by which they
" were at first acquired. But when in-
" stead of Industry, Sloth, instead of
" Chastity and Justice, Lust and Pride
" took possession of the Courts of Princes,
" their Fortunes changed with their
" Manners, and the Empires and Go-
" vernments of the World were trans-
" ferred from the less fit (*though Rightful*
" *owners*) to those that were (*though*)
" better; *though they had no right.*

46. This learned Heathen imputes
the changing of the Ancient Govern-
ments of the World to two Causes, the
corruption of the manners of the Descen-
dants of the first Kings of the Earth,
which gave their Subjects occasion to
desire a change. And the Ambition,
Pride and insatiable desire of larger Do-
minions

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minions of some active and fiery Princes, who sought to found the greatness of their own glories and Dominions on the Ruin of their less Active and effeminate Neighbour Princes; who by ill managery had lost the Esteem and Love of their Subjects, who at first could less brook the Vices of their Princes after they had been some Ages governed by the easie and sweet Methods of a *Pater-nal Monarchy*, with much simplicity, integrity and justice, and with as little oppression as State and Magnificence.

1. But then he begins much too late when he placeth *Cyrus* in the Head of the Ambitious Monarchs, who thus encroached upon their Neighbours; but the reason of this was because he was the first in the Heathen Chronology, of whom they had any great certainty.

2. But then as to the effects that followed these changes in the World, no Man can possibly paint them out with greater vivacity and truth than he has done. The People, dazzled with the glittering splendour of these rising Monarchs, forsook, or but weakly defended their
Right-

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Rightful Ancient, but less glorious Princes, with whose Vices they were offended, but they gained nothing by it but stronger Chains and greater both Oppressors and Oppressions.

3. Had this Man been able to have assigned the true source of all this, the Justice of God upon both Princes and People for their *Idolatry* and defection from the true God: and the universal corruption of Mankind which thereupon like a deluge over-spread the face of the whole Earth, this passage might have been taken for the Epitomy of the Story of the first Ages; and of the first Changes that happened in the World. May the Reader pardon this long digression.

48. Our Author has another Whimsy: *That if Parents are to be trusted with this absolute power over their Children because of the natural affection they are always supposed to bear them: then Princes ought not to be trusted with it, since none but Parents themselves can have this natural Affection toward their Children; Princes as the Author (Sir R. F.)*
(c) grants,

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grants, having this Power onely as representing these Parents.

Page 22. 49. So that though it be never so clear that *Adam* had a full and Princely Power over all his descendants, it must end at his death, and from thence forward none but the distinct Fathers of each particular Family could have any such Power, and that onely during their lives, so that every Family throughout the World must be a distinct and independant Monarchy. For Parentage is a natural Relation, and neither can be created nor assigned farther than the Civil Laws of the Country have appointed, &c.

50. Now to me it seems the power of Life and Death is Originallly in God; and that *Adam* had it from him by donation: and God having invested *Cain* with it, upon the forfeiture of his Birth-right it descended to some other of *Adam's* Children, viz. *Seth*, and his descendants.

Secondly, That in *Adam's* life-time he might permit or assign others of his descendants to execute that and other parts

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parts of his Paternal Power for the government of their respective Families, it being impossible that he without assistance should govern all mankind nine hundred years in that prolific and long-lived Age of the World.

Thirdly, That those that were thus possess'd of it in the life-time of the Protoplast had as good a right to use it, as any subordinate Judg under any Prince hath now.

Fourthly, That upon the Connivance or declared consent of *Adam's* Heir after his death this Power became Hereditary to the *second and third* Generations, and they had a good right to assign and subdivide it as they thought fit, till Civil Laws took from Princes this Power.

Fifthly, That the Descendants of every one of these persons to whom this Sovereign Right was given or permitted, had as good right as their Ancestors to enjoy it, and when they ceased to be the natural Parents of their Subjects, yet they were the Representatives of such natural Parents, and succeeded to their Right, not by any civil Laws, but by the Decree and Providence of God, who once for all declared his Will,

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when he told *Cain* His Brother's *desire* should be (subject) to him, and he should Rule over him; and if *Cain* had not forfeited this Charter it would have given a Right not onely to *Cain*, but to his Eldest Son and so on. But however the Right of Primogeniture hereby introduced hath been continued in the World ever since.

51. If this Gentleman really thinks it is inconvenient to give the Right of a Supreme Father, to one who because he is not the natural Father, may possibly want the Natural affection of a Father. I answer first, God who is and ever was the true disposer of Kingdoms, has in his hands the Hearts of all Princes, and endows them with such affections as he thinks fit, not onely towards the people in general, but towards each particular person. And therefore as he was the Author of all Government and is still the preserver of it, so no inconvenience can happen but he is able to redress it.

Secondly, That there was as great or rather greater inconveniences which sprung at first from the too great lenity of
of

to the Reader.

of these natural Princes, for want of power or will to punish the disorders of their Subject-Children as have ever sprung since from the Tyranny and cruelty of the worst Princes. And I believe to this was owing that excessive Wickedness which forced, as it were, God Almighty to put an end to the first World, by that time it had stood about sixteen hundred years. And we see afterwards *Eli* and *Samuel*, good Men, and severe Judges towards others, were yet too indulgent to their own Children; which shews the weakness of the Authors Reasons, and the greatness of the Wisdom of God, in making all Governments to spring from Paternal Power, which is the mildest of all Powers, and so descend by degrees to Hereditary Monarchies, which are the Divinest, the most Natural and the best of all Governments, and in which the People have the least hand,

52. Doubtless that Chain of Patriarchs we have in *Genesis*, by whose Lives the Chronology of the World is onely reckoned till the Flood, were in their several Generations considerable Persons and Princes over their Family which

(c 3)

could

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could not but be numerous. The very counting the Age of the World by the years of their Lives is to me an Argument, that they were no obscure unregarded Men. Howsoever, *Noah* the last of the ten was the second Universal Monarch of all the World when he came out of the Ark. By him and his three

Gen. IX. Sons *was the whole Earth over-spread.*
19.

53. But my Author has a great quarrel against Sir *Ro. F.* for Averring, that in the dispersion of the Nations after the Flood the several Colonies were not confused Multitudes, without Heads or Governours, but they were distinct Families which had Fathers for Rulers over them, &c. For which Sir *Rob. F.* quotes *Gen. X. v. 5.* to which the Author has not one word, but onely transcribes the Text falsely leaving out the very principal words, and so leaves the Reader to judg by his mis-transcribed Text, whether Sir *Robert* had proved the thing he quoted the place for.

54. In the same page in the next Sect. he quarrels Sir *R. F.* for allowing *Nimrod* (according to Sir *W. Rawleigh*) King
over

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over his own Family by Right, and over other Families by Usurpation and Conquest, and not by Election of the People or Multitude. Upon which our Author tells us, *if this were true it proves no more, than that the Patriarchal Right could not continue, since it was usurped in the Grandchild of Ham, the fourth descendant from Noah.*

55. There is a common Opinion amongst Learned Men that *Nimrod* was the same with *Ninus* in profane Story, and the founder of the *Affyrian* or first Monarchy, a great Usurper upon his Neighbours, &c. Now what if all this is a meer mistake, as a Learned Man of our own Nation has convinc'd me it is?

*Chronicus
Canon
Joannis
Marshami.
p. 75. &
Alibi.*

56. Well, but if it be true, what then? Could not the Patriarchal Right continue because the great Hunter hunted a few of the little Princes that govern'd their small Territories in a corner of *Asia* out of their little Kingdoms and annexed them to his, to enlarge his bounds? Pray Sir, was not his a Patriarchal Power? And when he had added these to them, People he govern'd

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verned before, were they not all still under a Patriarch, though the Conquered people were not under the right Patriarch.

57. But what is this to the Patriarchal Right which diffused itself with Mankind over all the face of the Earth, and erected Monarchies amongst all the Nations in the World; so that for a thousand years after the Flood there was not one single People in the whole World that was not under a King or single Person, these Monarchies too were generally Hereditary, and no mention or pretence of the Election of the first and Antientest Monarchs; but when these Lines totally failed in some places, the people elected others to supply their places: but still the Original of all these Ancient Monarchies was founded in Paternity, the Nation taking a Name from their Founder or Father, and were call'd the Children of their Founder, Father, and first King.

58. Now Sir, If all the people in the World had been left at perfect liberty to chuse what form of Government they pleased, how came they to chop all with

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with one consent into Monarchies at first? was there not a Voice of Nature, a Finger of God in this? Pray Sir, why did God lay the foundation of Mankind in a single Person, and not in a Multitude? and why did he take so much care, this should be known? Consider this well, and tell me if this could have any other design than that Mankind might grow up under the best of Governments? Page 34.

59. Our Author Quarrels Sir R. F. for instancing in *Judah's* sentencing his Daughter-in-law *Thamar* to death as an Example of the Power of life and death in the Patriarchs: For if *Judah* exercised an absolute Power of life and death, he was free from subjection to his Father *Jacob*, who was then living. Why I pray Sir, Had not those Fathers who were subject to the Roman Commonwealth themselves, yet a Power of Life and Death over their own Children? and if *Judah* had it, could *Jacob* want it?

1. If *Ruben* Pledged his two Sons to his Father *Jacob* for the restoring *Benjamin* to him again, it is as plain as the Nose on a Man's Face, that till this was done

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done by *Ruben*, *Jacob* had no manner of Authority over his Grandchildren: tho this can signifie no more than *Judab's* being Surety to his Father on the same occasion, *Gen.* 43. 9. which he afterwards pleaded before *Josph*, *Gen.* 44. 32. If the Patriarchs tell their Father they will not go down into Egypt without their Brother *Benjamin*, because they expected to get no Corn, and were sure to be taken for Spies if he were not with them; this is a plain disclaimer of *Jacob's* Authority, though it signifies no more than that they durst not go.

But if *Jacob* had no Authority over them, why did they plead so long and so hard for his leave to carry *Benjamin* with them? They had as much mind to go as he had to send them, and were able to have forced *Benjamin* from him if the Reverence of his Authority and Power had not restrain'd them to that degree, that they would rather starve than rebel against their Ancient Father.

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2. If *Abraham* make War and *Isaac* Peace, this is by a *Tacite consent* to the Father or Master in all things tending to

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to the good of the Family. But this proves not this Absolute despotick Power the Author (Sir R. F.) contends for — that is, it is to be presumed Abraham's and Isaac's Slaves who were bought with their Money, or bred us of Bought Slaves in their Families did give a tacite Consent, without which these grave Men who are own'd for great Princes by their neighbour Kings, durst not have presumed to have done any of these things: and this too is no Argument they were Princes in good earnest but a sort of *Sicuts* Imaginary phantastick Princes; for our Author is never to be wrought on by such Arguments as these; though I believe if his Darling the Multitude had but half so much to shew for a Commonwealth, he would fall down and worship the Golden Calf.

60. Having supposed once more that the Patriarchal Right was totally interrupted by the Usurpation of *Nimrod*, who ought to have been a Servant, because *Canaan* was by way of Prediction adjudged so to be, which yet had not its accomplishment till the *Israelites* some Hundreds of years after this entered
and

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page 37.

and conquered *Canaan* under *Joshua*. Neither was *Nimroul* any of the descendants of *Canaan*, nor at all concern'd in the Curse which belong'd onely to *Canaan* and his Posterity, and to no other of the Children of *Ham*. Having, I say, blundered on at this rate, he makes the Children of the first Planters to have followed their Fathers not as Children or Subjects, but as *Volunteers*, as retaining a Reverence and Affection to their persons for their great Age and Experience, and care of their Families. —

Now truly I am thus far of his mind that these Children followed their Fathers freely and were not driven afore them, nor dragged after them with Chains; but to infer from hence, that they owed their Fathers none of this Service or Attendance but out of a meer Good nature and Gratitude which are due to Strangers that have obliged us by being our Benefactors, this is a Notion fit for this Gentleman, none of the other two. They speaking not of the Fathers of Families (as he supposeth these to be) but of Men taken out of the mass of Men afterwards for their Virtue to govern them.

Sir William
Temple
Essay of
Government.
Pofendorf.

61. Well,

to the Reader.

61. Well, but if all this were true, Page. 38.
that these Fathers of Families were so
many absolute Kings, yet it quite destroys
the Authors (Sir R. F's) Hypothesis,
who will have but one true Heir to Adam,
who if he could be known had a Natural
right to be Monarch of the whole World.

But did Sir R. F. or any other Man
ever suppose, because Adam had certainly
an Heir in the World, that this one
Man must be the Universal Monarch of
the World in exclusion of all other
Princes? Cain forfeited his right, but
then who succeeded to it? Why say
the Republicans it was equally divided
amongst all the Children of Adam:
Well, but Cain had no right till Adam
died, so the World continued under a
Monarchy nine hundred years, and by
that time the several Fathers who had
governed under Adam, their own Families
and descendants were so well settled,
that in all probability the Multitude
got but little in the dividend.

62. And in Noah this Monarchy being
in a single Person again, the three
great

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great Patriarchs divided it again, how or which way it matters not, but divided it was into three shares, and because Mankind in a little time became so dispersed, and the Languages so confounded by the Act and Will of God, that it was impossible for the three Elder Sons of these three great Patriarchs to govern them, therefore the Heads of the several Families took this care upon them, and their Children submitted to them, wherein they had the direction of God Almighty who had commanded them to obey their Parents, and a miraculous Declaration of his Will for their dispersion by the confounding of their Language, and that so ordered by God too that the descendants of the same Person and Family spoke one Tongue: was not this a declaring these Fathers Princes of these several Families and Tongues by God himself, who by his Providence had thus confounded their Tongues and dispersed them by Families that they could no longer be governed by three or four Patriarchs, but must have more distinct Governments, now there was so many distinct Tongues, and no means at present

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sent of any intercourse or correspondence one with another, or with their former Governours?

2. He has another Scruple, and that is Page 22:
this: *If these* could divide themselves into so many distinct Governments as there were Sons (of the Patriarch *Sem, Ham* and *Japhet*) why could not they do so *ad infinitum*? and then there could never be any common Prince or Monarch set over them all but by force or Conquest, or else by Election, either of which destroys the Notion of the Natural Right of Eldership.

63. Why, I will tell him why they could not divide *ad infinitum*. First, God prevented it, who by his Providence has maintained Government and that for the most part by Monarchs ever since the Creation of the World. And although he was pleased to permit many divisions after this time, yet he would never suffer Mankind to be crumbled into such small divisions as to make every distinct Household an independant Government.

Secondly,

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Secondly, These Monarchs prevented it, who would be sure to reduce to their due Subjection any person that should attempt to divide himself or Family from the rest, and set up for an independant State without their leave and liking.

Thirdly, The necessity of Mankind prevented it, such small parcels of Men not being able to preserve themselves but by uniting with the rest for their support and protection.

So that the divisions that were afterwards made, were by the consent of these Heads of Families, who at their deaths divided their Kingdoms amongst their Children, till they found afterwards an inconvenience in it, and then the Estates were left again to the Eldest Son, till by one means or other things were brought into the state they now are.

64. Surely this Gentleman is a younger Brother he has such an Aver-
sion for Primogeniture. Gods Words
(saith

to the Reader.

(saith he) to *Cain*, will not do it, (that is, give the Elder Brother any Authority over the Younger) *His desire shall be subject to thee, and thou shalt rule over him?* for first, this might be spoken onely personally to *Cain*, and not give a right to all Eldest Sons. Page 39.

At this rate of perverse disputing a Man may argue to the end of the World with *May be's*. But when God spoke the same words to *Eve* concerning *Adam*, will he suppose they were personally spoken to *Eve* onely, and concern'd never another Wife that ever should be but Her? Or can he assign any reason why they should rather be personal in the last than in the first case, his great Love for Anarchy and confusion excepted.

65. Secondly, (saith he) the words Page 39.
do not signifie an absolute despotick Power, but a ruling or governing by persuation or fair means; as when a Man is ruled, that is advised by another in his Concerns.

(d)

At

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At this impudent rate does he trifle and play the fool with the Words of God, thy Brothers desire shall be subject to thee, as far as he thinks fit, and thou shalt rule over him. If thou hast the knack to wheedle or persuade, was not this a mighty matter for God Almighty to appear to *Cain* about, an excellent and rational way to Appease his Wrath towards his Brother?

66. If I should go on to Answer all the impertinent Cavils this Man hath raised against the Rights of Fathers over their Children, Elder Brothers over their Younger, and Princes over their Subjects, I must write a Folio of a great thickness, and to little purpose, when in all probability this seditious Libel without an Answer will be totally forgotten in a few years. I shall therefore make shorter work with the rest of it, having, as I believe, sufficiently established such foundations, as by an easie application will answer almost all the rest.

67. Because He cannot deny what
Page 40. Sir R. F. alledges, That the Fathers in
many

to the Reader

many Nations had a Power of Life and Death over the Children, he is contented to yield, *That many Nations seeing great inconvenienges (in the contrary) did by their Laws leave Parents the Power of Life and Death over their Children.*

But how came they at first by it? Was it introduced by humane Laws? That he dares not Avert. Was it Usurped by Parents at first? That he cannot prove: for it is as old as the World. It must then be a derivation of the Law of Nature, and Prior to all Humane Laws, as the Authority of Parents over their Children is not from the Laws of Men but the divine Institution, and derived from God; and though Human Laws have since restrained the exercise of it in many degrees, yet Originally it was subject to none but the Laws of Nature and right Reason; and when these Humane Laws cease to oblige a Man, he is then at liberty to use his natural freedom towards his Children, and so becomes a Prince over them, not by gaining any new Authority, but by being delivered from those restraints which

(d 2)

before

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before curbed his Natural Power over them.

68. If I had no Superiour but God, I should be in as good a state in relation to my own Children as *Noah* was after the Flood, and should need no new Commission from God or Man to make me a Sovereign, being by Nature their Father, I must be their King, and my Eldest Son would be so after me *if I did not order it otherwise*, as I might perhaps in this Case. But it is utterly impossible that one Man should govern the whole World, and therefore that could never be the intention of God when he gave *Cain* a power over *Abel*, and therefore in that instance the Donation must be understood to other first-born as well as he: and if God has been pleased to give the first-born this jurisdiction over the younger, shall such a small Scribler as this be received to dispute his Will, and maintain against the sense of all Ages and Countries, that no Son is more Lord of his Brethren than another, and that the rest of the Children may submit to him upon the death of the Father, or refuse him

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him and set up another if they please,
69. Supposing *Eve* survived *Him*; Page 52.
(*Adam*) why should not her natural Right
of governing the Children which she her
self brought forth (and which out of
wedlock would have belonged to her)
revive and take place before any right
of her Eldest Son, to whom upon this
ground she must become a Subject?

I know no reason why it might not
have been so; but onely because God at
first was pleased to order it otherwise,
and this Law of his being received as it
ought in all the World, I think he ought
to be contented with it; but as for his
Bastards let their Mother have the go-
vernment of them by all means; for I
will not concern my self about them.

70. Passing over the rest of his Chi-
canrie about the Successour of *Adam*,
which is designed for nothing but to
make the World believe he was chosen
by the *Multitude*; and his Discourse a-
bout successions to Crowns in general,
which he saith depends so much upon
the consent of the People that Princes
cannot alter them if they would; from

(d 3) whence

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whence he falsely concludes; that neither were they the first settlers of them, that is, of the salique Law of *France*, of the succession of Females as well as Males in *England* and *Spain*, &c. And thereupon tells us, that the Common Law depending upon certain received Customs is as much or more the Law of the Multitude as of the Prince. To all which I shall reply but this.

71. There was a time when the People of all Countries were governed by the sole wills of Princes, which by degrees came so to be well known in several instances, that inferiour Magistrates need not resort to them in those Cases, and the people being for a considerable time accustomed to such Usages they grew easie and familiar to them, and so were retained, though the memory of those Princes who first introduced them was lost, and the after Kings finding it better to continue what was so received than to run the hazard and trouble of changing them, were for their own ease and the good of their Subjects contented they should be still from Age to age so continued.

72. He

72. He has an odd Conceit that Servitude being a meer personal Duty, &c. when the person dies to whom he owed this Subjection the Slave is free in the state of Nature, unless the Lord of this Slave transferr'd his right in him to another in his life-time, &c. He hath no longer any Obligation to serve his Children, unless he will make himself their Slave of his own Accord.

What he means in this place by the *state of Nature* is very uncertain; but if he means that before Civil and Humane Laws had restrained the natural freedom of Men thus by Nature it was, it is very ridiculous. For though Nature made no Man a Slave to another, and God made Government to spring up by natural generation, that so all Men might be born in subjection, which was necessary for all but *Adam* who was created a perfect Man; yet then this shews God did not intend that Princes should treat their Subjects as Slaves, but as Children. Though this, I say, was the first designment of all Mankind that they should live in Sub-

(d 4) jection,

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jection, yet it was not intended by Nature that any Man should be, or be treated as a Slave. But then if a Man brought this upon himself by the Act of his will, or forfeited his liberty by any Crime, or was in War contented to give his liberty in exchange for his life, Nature enacted no Laws for the determination of their Slavery, except by death, nor for their restitution to Liberty but by the consent of their Masters. But on the contrary, the Children born to such Slaves, were Slaves as well as their Parents to the Master and his Posterity for ever; so *Abraham* had Servants born in his own House

Gen. 14: 14. which were a part of his wealth as well as strength; for thus his wealth is set forth to *Laban* by his Steward to induce *Laban* to give his Sister *Rebekah* to *Isaac*.

Gen. 24: 35. I am *Abraham's* Servant, and the Lord hath blessed my Master greatly, and he is become great, and he hath given him Flocks, and Herds, and Silver, and Gold, and Men-servants, and Maid servants, and Camels and Asses. So his Servants stand in the midst of his wealth, and were no other than his Slaves who were to descend to *Isaac* with the rest of his Wealth,

to the Reader.

Wealth, yet Men were certainly then, if ever, in a *state of Nature*.

73. As to the Laws of Succession in Hereditary Kingdoms (those I mean that are not deducible from the general Law of Primogeniture which hath God for its Author) it is no wonder People stand stily to them when they are once settled; for there cannot befall a people a greater Calamity than to have the Title of their Prince disputable by the Sword, which must happen as often as the right Heirs are put by, and others that have not a good Title according to the Laws of the Country set up, in which the Princes who do attempt such changes have the least concern, they being then in their Graves when this is to happen, but the Subjects are they must suffer by it.

CHAP. II.

HAVING gone thus far with his first Chapter. I proceed now to the second, which I intend to run through with as much

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much brevity as I can possibly; for to answer all his Cavils would be endless, and quite contrary to the design I have in hand.

Page 65: 74. **T**HIS Gentleman lays it down as a Principle by way of Question. *Why should a bare Possession of this (Government) though of three or four hundred years confer a better Right than that of a year or two?* And afterwards pag. 69, &c. endeavours to prove that almost all the Princes in Christendom are derived from Usurpers. So that if their people please they may proceed with them as with *Oliver Cromwell* or any upstart Tyrant, notwithstanding their long and quiet Possession.

2. Now in Answer to this Query I reply, That God extends his Judgments Exod. 20. to the third and fourth generation, but his Mercies to a thousand, that is, for ever. Now as no usurpation can succeed without God's permission; so much less can it establish it self or continue long without his particular blessing and Providence, who being the Sovereign Proprietor of Kingdoms, may without injury

to the Reader.

injury to any man dispose of them to whom he please, but this being no way to be known but by the event; when a Family have enjoyed a Kingdom or any thing else, above four descents Men are not to look back to see how it was Acquired, but to acquiesce in the pleasure of God discovered by his Providence; and the Subjects of that Prince are then bound to serve and defend him as well as if he could derive his pedigree from the Eldest Son of *Noah*.

3. Without this there would be no end of Usurpations, but Mankind would be exposed to eternal Confusions, Wars and Devastations.

Yet this is no encouragement to Traitors to rebel and usurp upon their Princes; for they that first begin these Usurpations, are liable at once both to the Wrath of God for rebelling against their lawful Princes, and to the Justice of those Princes too, and do very often pay dearly for it and are disappointed in this World in the first attempt, or after a short time in their Posterity, but however are certain never to escape the Justice

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Justice of God in the World to come; which if they be not sufficient to deter men from such practises, much less will the giving Liberty to the people to depose and murder their posterity after three or four hundred years possession.

4. I have observed that this sort of Writers pretend a great Aversion for Usurpers, and Usurpations, and that what is gotten that way can never raise a Title that shall be good and valid, but this is not out of kindness to Princes who have undoubted Titles but to the *People*. For say they, if there be an usurpation in the *Line* though it were three or four hundred years ago, that Line hath no more right than another. Well then, shall the right Line be restored that was put out by this usurpation? no, that is not necessary neither; What then? why, the Right, if any were, is forfeited by this Usurpation to the *people* from whence (say they it came) and if the present possessor though of but a year or two standing will own this right by *Election* from the *Multitude*, all is well; but if he stand upon his Priviledg and will Govern as a Prince, then he

to the Reader.

he is an Usurper and must be turned out
to make way for a Commonwealth or a
more tractable Successor.

5. Now though I hate *Usurpations*
as much as any Man, yet I can shew
where God himself owned a Race of
Princes to be his *Ministers*, which was
began by Usurpation upon the *Rights*
and *Liberties* of a Free *People*, and that is
the Family of the *Cæsars*. *Julius Cæsar*
had no more Right to be the Sovereign
of the *Roman Empire* and City than *Pompey*,
or *Crassus*, or any other Citizen of
that People; but by force of Arms he
gained so much Power, that the Senate
and people gave him a Power Equal to
that of a Sovereign Prince, but without
the Title of *King*. He perishing by
their Treachery; *Augustus* his Sisters Son
by the same Methods of Force and Po-
licy, and the event of several Wars
gain'd the same power, and had the same
Authority given him; and in his Family
it continued till *Nero* was slain. Now
this Race of Princes are owned to be the
Ministers of God: that their Power was
from above; that Tribute was to be paid
to them, &c. Now if they pretend the
people

Rom. 13.

4.

John 19.

11.

March. 12.

21.

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people Elected them, that will never do, for it was no free Consent of the people, but the effect of force and fear, and if ever Men were *Usurpers*, these at first were. Yet after they were thus settled it was *Damnation* to resist them, because the
Rom. 13.
1, 2. Powers that (then were) were Ordained, (not by the Senate or People) but by GOD. Whose will in this was known by nothing but by the Event; and this whole Race lasted but one hundred and twelve years, and from the establishment of *Augustus* but ninety four years.

Page 82. That this Man is no Enemy to Usurpers is plain by this passage: This is a meer *Chimera* of the Author (Sir R. F.) that *Adam* or *Noah* were absolute Monarchs and Heirs of the World, so that no man could withdraw themselves from the Obedience of their Right Heirs without being guilty of Rebellion. Whereas I have proved (saith he) that all the Sons of *Noah* and their descendants were independent Governours of their Families without any subordination to the Eldest Son or Heir.

6. He

to the Reader.

6. He has indeed stoutly denied, but no where proved that neither *Adam* nor *Noah* had Sovereign Authority over their Children, but I think I have sufficiently proved they had, and I am fully persuaded that these persons were by God and Nature vested with as much power over their Children as God ever intended any Man should have over another.

7. And that this Authority was not to die with them, nor be equally divided amongst all their Children at their deaths. So that from thenceforth no Man should be in possession of a Right of commanding another, is as apparent by the Law given by God to *Cain* and *Abel*. His (*Abels*) desire shall be (subject) to thee, and thou shalt rule over him. Gen. 4. 7.

8. This could not be supposed to be in the life of *Adam*, for then *Adam* was Lord over all his Children, and so none of them without his permission was to rule over another. And if it were by *Adam's* Appointment, then *Adam* was the

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the Sovereign still; the other was but his Deputy; but after *Adam's* death, then it became a real Sovereignty, having none but God over it.

9. It is very probable *Cain* even in the life of his Father withdrew himself after the murther of *Abel*, and set up a Government Independant upon that of his Father, which is owned by this Author, and seems intimated in these words:

Gen. 4. And *Cain* went out from the presence
16, 17. of the Lord and dwelt in the Land of *Nod* on the East of *Eden*, and he built a City, and called the name of it *Enoch* after the name of his Son *Enoch*. And there are four Descents set down immediately of his Family which could be no other than the Princes of that City, and of *Cains* Race. So he was not only the first Murtherer, but the first Rebel, Schismatick and *Usurper*, for so he must be all the days of *Adam*.

10. That any of *Noahs* Children withdrew from him without his Leave
Gen. 11. in his life-time doth not appear, but rather the contrary: for it is said, the
1. 2. whole Earth was of one Language and
of

to the Reader

of one Speech: and it came to pass as they journeyed from the East, that they found a Plain in the Land of *Shinar*, &c. By which words it appears they kept well enough together: and the very reason why they began to build the Tower was, Least We should be Scattered abroad upon the face of the whole Earth. So that here was no disunion amongst them nor desire of it; and after the confusion of their Language it is said, From thence did the Lord scatter them abroad upon the face of the Earth. So that here is a plain reason why *Noah's* Eldest Son could not succeed his Father in the intire Dominion of all Mankind, even because God had made it impossible for them to converse together: yet in this Confusion God divided them by Families, so that every of these several Languages had a common Father to govern them of the same Speech, which shews that God was for Government, and that Paternal Government too, still.

So that if He could never so clearly prove that here was no subordination to the Eldest Son or Heir, which no Man ever supposed, yet still this is nothing;

(c)

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nothing; for God ordered it otherwise in the first place, and in the second: If these Sons of Noah were independant Governours of their Families, without any subordination to the Eldest Son or Heir, then were they Sovereign Princes, and had much less any dependance upon their own Children and descendants. So that hitherto the Multitude were under subjection, and could not set up a Commonwealth without rebelling against these independant Governours.

Now if in this horrible Confusion the People by the Will of God felt still under the Monarchical Government of the Fathers of their several Families, when did they obtain their freedom? in what Age did it begin?

We find no Government but Kings from this time forward till Joshua's time: Nay, which is more wonderful, not one Commonwealth is to be heard of in all the World but on the Mediterranean Sea, till some hundreds of years after our Saviour's time. But on the contrary, one Monarchy grew out of another as Mankind increased till

Gen. 9. 15. Canaan,

to the Reader.

Chanaan, which was peopled by six Sons of *Canaan*, and *Philistim* a Son of *Miscraim*, had above thirty Kings in *Joshua's* time, which could proceed from no other cause but the Fathers dividing their Kingdoms in their life-times, or at their deaths amongst their Sons and descendants; for we hear not one title of Popular Elections in those Early days.

13. Now that the Princes of after Ages did often divide their Kingdoms amongst their Children is apparent enough, but whether they or these did it *jure* or *injuria* I will not contend with this Author.

14. But now if neither *Adam* nor *Noah* were absolute Monarchs and Heirs of the World, *i. e.* had not in the first place a right to govern as Princes and Kings their Posterity; then can no other Man pretend to have any such right to govern any number of Men; and consequently there can be no such thing as an Usurper; for where there is no right there is no usurpation: as if *Lambert* had deposed *O. Cromwell*, he had not been an Usurper upon Him or his
10 (c 2) Family,

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Family: if He had set up himself, but upon the King who had the right, and where no body have a right, no body can be an Usurper.

15. If neither Adam nor Noah had a Sovereign Authority, then could their Children never have nor create any, for they succeeded to their Fathers Rights and no others. And if they had a Sovereign Authority, the people were their Subjects as long as they lived, that is, nine hundred and thirty years after the Creation of the World, and three hundred and fifty years after the Flood. So that for one thousand two hundred and eighty years, which is at least a sixth part of the Age of the World, the people of the whole Earth have owed Obedience to Monarchs, which they could not Elect nor Depose.

16. If these two, on the contrary were Sovereign Princes, as they were the Fathers of Mankind, then is God the Author of Monarchical Government, and not any Acts or Elections of the People: and if God began this Government twice in the World, what need is there of a whimsical popular Election

of

of the immediate Successors of these two Patriarchs. For Seth was eight hundred years old when Adam died; and the youngest Son of Noah was three hundred and fifty years old when he died; and in the days of Peleg, when the Earth was divided there was none of the three great Patriarchs, Shem, Ham and Japhet, who was not three hundred and fifty years of age; it may be more, and it is not probable that any of the Fathers that Headed the Divisions (if there was above three) made at first was under one hundred years of age, and can any thing in Nature look more ridiculous than for the Children and descendants of these Old Men to elect them, who begat them, to be their Leaders and Governors at an hundred years of age? But so comfortably does the word Election sound, that I wonder they have not made the Angels to Elect the Arch-Angels, and the Devils their Belzebub.

17 Our Author descends from the more Ancient to the Later times: and tells us, the Goths, Vandals, and our Saxon Kingdoms were erected by such Generals of Armies as not being Kings

Gen. 10.

25.)

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at home, nor able to subsist there were forced to seek their fortunes abroad; which when they had obtained they could have no other right over the Men they brought with them than what sprung from their mutual Compacts and Consents.

18. Omitting the Goths and Vandals for brevity sake; as to the Saxons; I reply, that *Hengest*, and *Horsa*, and the other Leaders who brought the Saxons into England, were all of them of the Royal Line of the Saxons: as appears by all our Historians, and so not Kings, yet well able to subsist; and it was not the manner of those Countries to thrust out their supernumeraries; but to draw them out regularly at such a rate and proportion, as to give them Generals and Officers of great Birth and Degree.

* Math. Westm. ad An. 449.

† Apud Saxones mos erat, ut cum multitudine

hominum eo usque crevisset, ut non facile eam patria alere possit, Jussu principum optimos quosque Juvenes sortis eligunt, qui sub his educerentur. Pol. Vi. l. 3. Math. Westm. ad Annum 449. Gildas. Beda,

19. To which we may add, that *Hengest* and *Horsa* came not over as Enemies,

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Enemies, but as Auxiliaries to the *Britains*, who had sent an Ambassadour to crave their assistance: and it is much more probable they were chosen not onely out of the Royal Race of *Saxony*, but by the King or Kings of that Country to govern them, than that their Soldiers should elect them.

20. Nor is it probable if they had made Articles with their followers; that these Princes should have had such absolute Authority as they had over the Lives and Fortunes of their Subjects in the more early times, almost all the privileges of the *English* Nation being granted long since that time, and most of them since the Conquest, yea since the Barons Wars.

21. The very Notion of the three Estates cannot be older than the Conversion of the *Saxons*, there being no Clergy (which is the first) till Christianity, nor any Laws but the Wills of the Princes, till Learning, together with Christianity spread it self amongst them.

** Anglicarum legum memoria ab Ethelberto rege qui Primus Saxo tin-ctus est Baptizatus, &c. Lamb. Epist. dedicat. Ante Leges Sax. sine. Aluredi Leges. S. 27. pag. 22. These were the most Ancient of the Saxons.*

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and the more Ancient Laws being nothing but the Edicts of the Kings and their Councils. All the Lands of *England*, are holden of the Kings of *England*, and there is not one Acre of Land that is not holden of the King mediately or immediately, and to him as to the proper Fountain they return and are confess'd to be derived from their bounty.

And as to *William* the Conqueror whatever Contracts be made with the Venturers that came over with him, who were not his Subjects, he was as absolute a Sovereign Prince as ever was, here in *England*, and disposed of the Lives and fortunes both of the *Saxons* and *Normans* as he pleased. So that these Compacts with his Followers did not in the least abate his Sovereignty and Princely dignity and power.

23. Sir R. F. upon the failure of a Line or Race of Kings, having supposed or asserted, that all the prime Heads and Fathers of Families have power to Consent in the Uniting or conferring their fatherly Right of Sovereign Authority on whom they please; and he

*Patric
cha. p. 21.*

(1 0)

that

that is so Elected, claims not his power as a Donative from the people, but as being substituted properly by God, from whom he receives his Royal Charter of an universal Father, though testified by the Ministry of the Heads of the People.

91. Our Author replies, That if such an Elected Prince receives from God this Charter of an Universal Father upon this principle, I see not to what purpose this Nomination or Election serves, for if any body during this *Interregnum* can by force or fraud slip into the Throne, he is more properly God's Substitute, and to be obeyed accordingly than if he had come in by their Nomination or Election; since he is in possession by the immediate Will of God, and declared by the Success. Now, how this can result from Sir H. P's principle is beyond my Logick. For supposing that all Sovereign Authority is derived from God as from its proper fountain as St. Paul assures us, and this Author grants in these words, I will not deny that God is properly the Original and Efficient Cause of Sovereignty as of all good things, &c. I say, supposing

Rom. 1

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posing this, though these prime Fathers may nominate and design the person in that case, yet is it not possible for them to give him what they have not, the Royal Charter of an Universal Father, a Supreme and transcendent Power of Life and Death.

24. To Illustrate this, the Christians chose two persons to succeed *Judas the Traitor*, and after Prayer cast lots to know the Will of God which of them he had chosen, and the lot fell upon *Matthias*, and he was numbred with the Eleven Apostles.

Acts 1.26.

25. They did not yet pretend to make an *Apostle*, though they knew very well what qualifications were requisite for an Apostle, and accordingly set them down, v. 21. & 22. Nor did they refer it wholly to the Lot, but chose two such Men, and when the Lot had determined which of them should be the person, he was numbred with the Eleven, and received the Holy Charter of an Apostle from God who onely could give it, and not from Men, though testified by the Ministry of the Apostles, who

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who gave the Rule for the Election, took the Votes of the Brethren, and ordered the Lots to be cast, which Lots conveyed no Authority to the Person chosen.

26. Now I would fain know if any person had stepped forth and declared himself an Apostle, or brigueed and entriegued to be Elected; whether force or fraud if it had succeeded, would have given St. *Matthias* a better Title than their Election and Nomination, or would these lewd courses have been a better and more immediate Declaration of the Will of God, than that of a free and disinterested Election, refer'd at last to Lots. I believe no Man but this could ever think that force and fraud though successful are proper means to make a Man God's *Substitute*.

27. Well, but if they cannot give the power, to what purpose serves the Election? seeing God is pleased now not to deliver his Will in expresse Oracles, the best means that can be taken is to be used, and that is for many and great persons to consult, and determine who shall be the

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the person, and he that is so nominated must be supposed to have been particularly designed by God himself, whose Providence is more concern'd in these great Actions than in smaller: and by how much the fairer the business is transacted, so much the more there is of God in it. Whereas *force* and *fraud* are rather Arguments of his permission, when they succeed, than of his Approbation.

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28. He goes on and tells us, I see (saith he) no reason but that these Fathers of Families may, if their number be not too great agree to govern all alike: — that is, in short, may change the Government from a Monarchy to a Commonwealth. If there be a real failure of the Royal Line, so that no Man living have any right to succeed, and so receives no wrong; these Fathers of Families may if they please settle into a Commonwealth, and retain the Fatherly power in their Hands. For though God hath instituted and approved Monarchy, yet he hath not made it unlawful for Men to take up the other Forms when they are at perfect

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fect liberty; and are not determin'd to Monarchy by the right of a Prince or person whom they ought to set up and obey. But the Commonwealths that have so arisen in the World are as rare as a *Phenix*; and I believe I may positively say there is not one, nor in probability ever shall be; And whereas he tells us, *Rome* and some other Nations having taken a Cup too much of Monarchy; this Surfeit produced an absolute Aversion, Hatred and a propensity to the contrary Extream —. I reply, It was a Cup too much of Sedition, disloyalty and ingratitude to the best form of Government in the World, under which *Rome* and all the other Cities had been Nursed up in their Infancy; and when they grew great and rich by the care and kindness of their Princes, then such discontented Demagones as this put a Cup of seditious Principles into their Hands, and set them a linging after more liberty than they knew how to use, and so indeed intoxicated them, that like drunken Men they staggered and reel'd from one form of Government to another, being able to fix no where, till at last in spite of all their aversions,

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aversions, they fell all under absolute Monarchies again, this was the fate of all the Old Commonwealths, and what fortune attends the New Edition, God onely knows.

Patriarch.
page. 30.

29. Sir R. F. having Averred, That at the time when there was no King in *Israel*, but that every man did that which was right in his own Eyes, even then the *Israelites* were under the Kingly Government of the Fathers of the particular Families, &c. — Our Author replies: What is an *Aristocracy*, if this be not? viz. an Assembly of the Elders or Chief of the Fathers (that is, the best Men) meeting, consulting and resolving of Publick business.

Page 96.

I will tell him what it was, it was a System of petty Kingdoms united in one Language, Interest and Religion, and owing an Attendance in the same *Tavernacle* for religious Worship three times every year. But as there was then no King of the whole Nation, so neither was there any constant and settled Council or Assembly of these Fathers of the Families, or rather Tribes
for

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for the management of the publick Affairs. For the meeting of these Fathers, which is there mentioned by Sir Robert about the War against the Tribe of Benjamin was upon a great occasion, and of the same Nature were the other that in those times are mentioned in the Scripture.

30. Our Author goes on. What Page 96.
Power the Fathers of Families had at Home is not declared, whether it was independant, or else did submit to the Government of its own Tribe: but that it was Aristocratical, is apparent if Josephus understood any thing of the History or Antiquities of his own Country, which he undertook expressly to write of: for *Antiq.* Lib. 6. c. 4. He brings Samuel speaking to this effect to the People (desiring a King.) An Aristocracy is the best Government, neither should you require any other Sort of Government.

31. Now whereas our Author tells us, It is not declared what the Power of the Fathers of Families was at Home, whether it was independant, or else did submit

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submit to the Government of its own Tribe. If these words be well considered, nothing can result from them but an *Anarchy* or a *Democracy*: For if the Father of every distinct Family Lived and Governed his own Family independently, then was there an *Anarchy* or no publick Government at all. But if all these little Fathers governed by Majority of Voices or Magistrates chosen out of them, then was it a *Democracy*; but if on the other side, a few of the better sort of every Tribe governed the Tribe by Councils and Magistrates, then indeed the Tribes were under the Aristocratical Government; but it does not where appear that there were such Councils of the several Tribes, or Magistrates; but on the contrary, every Tribe had a Prince or Head of it. The Princes of *Israel* (saith *Moses*) Heads of the House of their Fathers (who were the Princes of the Tribes, and were over them that were numbred) offered. And every Tribe had one such Head or Prince and no more. And *Moses* tells us distinctly what every Mans name was: *Nahshon* the Son of *Aminadab*, of the Tribe of *Judah*, and *Nathaniel* the Son of *Zuar*, Prince

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Num. 7. 2.

verse 12.

verse 18.

simul

Prince

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Prince of *Issachar*, &c. Now if there was in those days any Government at all in *Israel*, then were these Princes the Governours of the several Tribes, and so every Tribe was under a Monarch, though the whole State of *Israel* was not under any one Person, or constant standing Council, and consequently was a System of little Monarchies; at least this was Sir R. F's opinion, and is no Contradiction to himself as our Author would insinuate.

32. And as to *Josephus* there are no such words spoken by *Samuel* in the place Cited, nor was there any occasion for them. All that *Josephus* saith here is this, That the demand of the People ^{Antiq. l. 6.} very much afflicted *Samuel* both by reason of his Natural Justice, and Hatred of Monarchy, for he was a great Lover of Aristocracy, as rendring them that lived under that form of Government divine and happy. ^{6.4}

33. Now this was rather *Josephus* his Mistake, who, together with his Greek Learning, had imbibed Greek Principles, than the truth of the thing;

(f)

for

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1 Sam. 8.

9.

Ver. 7.

for *Samuel's* discontent was, not that the People desired to change the Form of the Government from an Aristocracy to a Monarchy, for they were then under a Monarchy, and accordingly applied themselves to *Samuel*, and desired him to give them a King to judge them, he being then their Supreme Governour, but, as it appears by the Answer of God to *Samuel*, (*They have not rejected thee, but they have rejected me that I should not Reign over them.*) his great discontent was, that they should in a sort depose him in his life-time who had a right to have Reigned over them till his death; as all his Predecessors the Judges of *Israel* had done before him. So that *Samuel* could not be disgusted at their asking a King out of his Hatred to Monarchy, or Love to Aristocracy, when he himself had the Authority of a King though he had not the Title; and the Elders of *Israel* did not deal with him as with a subordinate Magistrate, Command him to lay down his Office, and then proceed to the Election of a King, but humbly Addressed to him as Subjects, and desired him to give them a King, and when

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when he had yielded to their request, they went home and gave him time to be- think himself who should be the Person.

So that nothing is more apparent than that *Israel* was not at this time under an Aristocracy, and that *Josephus* is mistaken in assigning, according to the Greek Principles, the Reasons of *Samuel's* dissatisfaction at the Peoples demand.

34. The words which by our Au- thor are said to have been spoken by *Samuel* are in *Josephus* attri- buted to *Moses*, whom he makes to have instructed the Children of *Israel* thus at the time of his Death: *Ari- stocracy is the best Form of Government, and the life that is led under it the most happy, and therefore let not the desire of any other sort of Government take possession of you, but reserve all your affections for this only, owning no other Master than the Law, and doing every thing according to it, for God is your King, and that is sufficient*

Ἀριστοκρατία τῆς οὐκ
κατασκευασμένης καὶ ὁ κατ' αὐ-
τὴν βίος, καὶ μὴ λαϊκοῦ
πόδες ὑμῶν ἄλλης πο-
λιτείας, ἀλλὰ ταύτης
εὐτυχῆς, καὶ νόμου ἱ-
στορίας διακρίτης, κατ'
αὐτὴν ἔσται ἀρεστότε-
ρος ἀνὰ τὸ ὅτι οὗτος ὁ
καμὴν ὅς, &c. *Joseph.*
Antiq. lib. 4. cap. 8.
p. 123. B.

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for you. But if afterwards the desire of a King should take you, then let him be of your own Nation, &c.

35. So that all that Josephus builds this upon are the words of Moses, *Dent. 17. 14.* When thou art come into the Land which the Lord thy God giveth thee, and shalt possess it, and shalt dwell therein, and shalt say, I will set a King over me, like as all the Nations that are about me, thou shalt in any wise set him over thee whom the Lord thy God shall choose; one from among thy Brethren shalt thou set King over thee: thou mayst not set a stranger over thee which is not thy Brother. These are the Words upon which Josephus in that place builds his great Encomiums of Aristocracy.

36. But first let it be considered that God had promised to Abraham as a blessing that Kings should come out of him. Secondly, That the Israelites had till that time lived under Monarchs, and no other; and that Moses himself was a King. And thirdly, How passionately he besought God Almighty to set a Man over the Congregation — that the
Congregation

Gen. 17.
6.

Num. 27.
16, 17.

to the Reader.

*Congregation of the Lord be not as sheep
which have no shepherd.*

The *Shandrin* had been constituted before this time, and yet *Moses* esteem-
ed them as Sheep without a Shepherd
if a Man were not set over them which
might go out before them, and which
might lead them out, and which might
bring them in; and God approved his
desires, and appointed *Josua* to suc-
ceed him, and the People received him
accordingly, and told him, *All that thou*
commandest us we will do, and whither, Josh. i.
16, 17.
soever thou sendeth us we will go, ac-
cording as we hearkned unto Moses in all
things, so will we hearken unto thee. If
this were not a Kingly Power, then
is there no such thing. So that
this Discourse which *Josephus* puts
into *Moses* his Mouth is directly
contrary to *Moses* his thoughts and
practice.

37. Again, whereas he makes
Moses to have opposed Obedience to
Laws to the Kingly Government,
that is a pure *Greek* Notion. For
(f 3) whilst

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*Civitas nulla tam
leges erant, quia libido
Regum pro legibus ha-
bebatur, Justin. lib. 2.
c. 7. de Atheniensibus;
quidam statim, aut post-
quam Regum peritiam,
Leges maluerunt; Tacit.
Ann. 1. 3. cap.*

O 6 rñr xoxd'ay ã-
 xon, doxoi xaxd'ay ã-
 xon 6 dide x' nu rō-
 mus, 6 3 d'apantou,--
 woxid'ay 6 d'ay.
 A. III. de Repub. I. III.
 cap. 12.

whilst the *Grecians* lived under Kings they had few or no Laws, but when they set up Commonwealths they then found the necessity of having Laws, and then, the dominion of Laws was opposed to the Government of Princes; but this was contrary to the Practice of *Israel*, for they were to live according to their Laws as well under Kings as with-

38. This bold Man makes Sir R. F. to have said in his Observations on Milton, pag. 20. *That God is so far from approving Kingly Government that it is a sin for the People so much as to desire it, whereas in the place quoted Sir R. F. plainly*

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plainly proves they were then under Kingly Government, and makes their sin to consist in this that they were not contented with the King God had put them under, but would needs have another King set over them in the life of *Samuel* who was Gods Vice roy, and who by constituting his Sons Judges under him shewes that he was a King. Sir *R. F.* in that place being disputing against a dangerous Principle, viz. that there is always a power in the People, either to use what Form of Government they pleased: or of changing it into another. I had taken no notice of this if it had been necessary to shew the rage and disingenuity of our Republicans.

39. Passing over an impertinent discourse about the Power of Masters over their Servants and Slaves, in which there are many and great Errors which yet are not worthy of a Confutation, as where he saith a Servant is bound not to resist when he is persecuted for his Religion, or performing his duty towards God as a Christian; but if his Life or Goods are wrongfully invaded, then

(f 4)

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then he may; and grounds this upon
1 Pet. 2. 18, 19. For this is thank-wor-
thy if a man for Conscience towards
God (*ei Alog. ouwidnow Oeu,*) endure
grief suffering wrongfully, where he very
strangely interprets Conscience towards
God, by matters of Religion. But who
ever made any attempt upon another
mans Conscience directly with force
and Arms? So that if in that case a
Servant is bound not to resist though
his Life and Goods are invaded, which
is the only way of compelling Conser-
vences, he is much more bound not to
resist in other instances wherein his
Religion is no way concerned, but so
great an Aversion hath this Gentleman
taken up for Sir R. F. that in contra-
dicting him, and his Principles, he very
often contradicts himself too.

40. In the next Paragraph the Au-
thor falls again to Discourse the Power
of a Husband over his Wife; and tells
us, that though by the Word of God
the Woman is made subject to the Man,
yet the reason of that subjection natu-
rally depends upon the Man's being com-
monly stronger both in Body and Mind
than

to the Reader.

than the Woman. And where that ceases, the subjection will of course cease even amongst us.

41. Now I think I have sufficiently proved above that the Husband hath a right to govern his Wife by the Will and Law of God, discovered by the Order and End of her Creation, and the Law God gave to Eve presently after the Fall; *Thy desire shall be to thy Husband, and he shall rule over thee.* And if it should happen that the Woman has a little more Wit than her Husband, that Advantage will not discharge her from her duty of obedience. But if indeed the Man is a Natural Fool, or runs Mad, or is in the height of a Sickness distracted, then the case may be altered, and the Wife may by the permission of God, and the Laws of the Land, which esteem such persons as *Non compos mentis* and Minors, take care of her Husband, and govern him who cannot govern himself. But then these Cases are strictly to be taken, and not extended to the less or greater degrees of Wit or Wisdom.

42. But

42. But then supposing the Woman should happen to be the stronger of the two, I cannot see how in that case the subjection does at all cease. Nor does our Author ever take any notice of it afterwards, but leaves the Women at liberty to fight for the Mastery, and if they can get it, they have our Authors opinion for the defence of this Usurpation, but not a tittle of reason to back it, except the common practice insinuated by these words *Even amongst us*, will do the feat.

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43. I grant (saith our Author) that if she (the Wife) made it part of her bargain to be so absolutely subject to him as that he might command her in all things as a Slave, and might make her do what work he pleased to appoint, and that he may either turn her away, or put her to death if he find her imbezelling his Goods, or committing Adultery; the Woman in this case is bound by her Contract, as another Servant, who makes her self so by her own consent.

Now

Now this is as extravagant a Bargain as ever entered into the thoughts of any man, and serves for nothing but to render the Natural Authority of the Husband over the Wife ridiculous. But though the Woman made no such Contract with her Husband, yet if she once became his Wife, by the Will of God he became immediately invested with so much power as was necessary for the preservation of himself and Family; and if his Wife would turn Thief, or Whore, or Murderer, need never consult his Contract of Marriage to see what power he had reserved, or she had consented to; but supposing he has no Superiour to whom he may appeal for Justice against such a Wife, may without any scruple proceed to punish her according to the nature of her Crimes. But as for making her his Slave, or treating her as such, this is contrary to the very intention of Nature, and I think such a bargain would be void if it were made, because by Marriage they become one *Flesh*, and it is unnatural that any man should tyrannize over his own *Flesh*, and make one

one part of his body unnaturally a slave to another part.

44 But this Gentleman has impregnated his brains with such strange Notions of Bargains and Contracts, upon which he makes all Government to depend, that he quite forgets all the Laws of God and Nature. But God has not left the World at that loose rate that the Authority of Superiours and duty of Inferiours should be left to be determined only by Bargain and Contract, but he himself has been pleased to set out the great bounds, and left the rest to Natural Equity, and Reason, and when either part transgress these, he hath sufficient Authority and Power to punish the Offender.

45 And remarkable it is that he made the first Woman of the Rib of her Husband that she might be literally flesh of his flesh, and bone of his bone. I suppose it had been altogether as easie to have formed her out of the dust, as he did Adam, us out of a Rib. But as God taught Eve her Duty of Subjection

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on by the Order and End of her Creation; so he taught *Adam* his of love and kindness by this Method, and when he made him understand that she was taken out of him, *Adam* could infer from it that he was not to use her like a Slave or a Brute; but as a part of himself, with mercy and Kindness. And this is and ever will be the duty of every Husband to the end of the World. And this is the Will and Law of God, and does not depend upon the Caprichio of Bargain and Contract, but upon divine and unalterable Laws.

46. How miserable had the state of mankind been at first, if God had created a number of Men and Women, and turned them into the wide World without any dependence upon each other, without Laws or any order, to have made Bargains and Contracts how and which way they should live together? But this did not become either the wisdom or goodness of God Almighty.

But he goes wisely on, and tells us, It is true indeed, that the Wife ought to be subject to the Husband in all things

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things tending to the good and preservation of her Children and Family, or else the Family would have two heads: But it doth not therefore follow, that he hath such a Despotick Power over her, that she may in no case judge when he abuses his Fatherly or Husbandly power. For suppose the Father of a Family in the state of Nature should in a mad or drunken fit go about to kill or maim himself, or one of his innocent Children, can any body think this were rebellion against the Monarch of the Family for his Wife to rescue her innocent Child or self out of his hands by force, if she could not otherwise make him be quiet?

47. This supposition of Madness and Drunkenness is of great use to our Gentleman, and I know no reason why he might not have extended it to Anger, or Lust, or any other Passion that Man is subject to, and have given all the World a power to judge when a man is drunk or mad as well as his Wife, or Servants, or Children.

I. Nor

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1. Nor do I know why it is so much insisted on but because these men are so in love with rebellion and disorder that they seek and catch at every opportunity to recommend it to the World. But I believe if our Author had a Wife, Child, or Servant that should take the liberty of controuling him upon this pretence, he would be more enraged with the reason of the resistance, than with the resistance it self.

2. But is it not possible that a man in the state of Nature may be Mad or Drunk? Is it not possible also that the Wife may be so? Now suppose they should mutually charge each other with Madness or drinking too much, who should judge betwixt them?

3. What horrible confusion must this introduce into all Societies to give Inferiours a power to judge their Superiours mad or drunk, and thereupon to resist and oppose them with force.

4. But if this does at any time happen, Wives, and Children, and Servants
that

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that are dutiful have ways to appease their *Monarchs*, as in scorn to Monarchy he stiles these Mad drunken Fools, without resisting and fighting them, by getting out of the way, and by Submission, Prayers, and Tears, which Nature hath taught them, on such occasions to make use of, who is a thousand times a better School-Mistress than our mad Politician.

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48. If the Husband (saith our Author) command her to do any thing against her Conscience, or the Laws of Nature, she is not obliged to obey him. For though the Wife in all matters peculiar to the Marriage Bed, and in all other things that relate to the well ordering of the Family is obliged to submit her Will to that of her Husband; yet it doth not follow therefore that she is an absolute Slave, to be commanded or compelled in all actions not tending to this End.

1. Now suppose she were the greatest Slave that ever were in the World, she could not be obliged to break the Laws of Nature, nor was ever any man so silly as to say or suppose any such thing.

But

But

to the Reader.

But he makes her *Conscience* to be another foundation of disobedience, which will not be so easily granted, for if her *Conscience* be founded upon the Law of God or Nature, that Law will excuse her, but if it be not, *Conscience* without Law will never do it.

2. Now after all the noise he has made in this matter, he grants as much as ever any body contended for except this plea of *Conscience* without Law; for a little after he grants the Husband a power to *compel his Wife by correction*, because Christ has taken away the liberty of Divorce, but gravely tells us it is rarely to be used.

3. For when he has discoursed largely against the opinion that in the state of Nature the Husband has a power of life and death over his Wife he grants; If she murder her Children, Pag. 113. or commit any other abominable sin against Nature, she may justly be cut off from the Family, and punished as a common Enemy to Mankind, and so she might be (saith he) if she had not been his Wife, but a Servant, or other Member of the Family.

(g)

4. Well,

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4. Well, but by whom should she be cut off? May her Children and Servants in such Case cut her off? Or must the man sit still and suffer his Wife to kill, and stay till some good Neighbour will take pity on him, and rid him of a bad Wife? No, it seems the Husband may do it, who may also do the same by a Servant, or other Member of his Family. But then he is invested with as great a power of life and death as ought to belong to the greatest Monarch on Earth; for they that are most absolute ought not to kill the meanest Slave without some such cause as this.

49. He tells us page 116. That this power which a man in some Cases hath over the life of another is only given him (the Prince) by God for the Common good and preservation of Mankind. &c.

Now if it be given by God, and only by him, we shall easily agree with him that it is given for the common good and preservation of Mankind, and that it

to the Reader.

it ought only to be used for that end. But then how can the People be pretended to be the Donors of it? This he contends for, and tells us, they may give their consents that such a man shall have a power over their lives; but when all is done, if God had not instituted this power, and if he does not give it to the person that pretends to it by the usual course of his Providence, the Peoples consent will never vest the Person with a right of that Nature. For the instance, *Oliver Cromwel* was invested with this power by the People, or Army, or who you please, but yet for all that every person that was Executed during his Reign was murdered, *Oliver* not having any lawful power of Life and Death, which the People could not give him, and it does no way appear God had, his late Majesty, in whom that Right was, being all that while kept out by violence, and at last restored by a wonderful Providence.

50. He tells us, God hath not imposed upon any People an absolute obligation of constituting any Civil Government at all, if they can live
(g 2) with-

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without it, or at least of its exercising further than they have need of.

1. Hereupon he tells us a long story of some poor Naked Indians, that have scarce any thing they can call their own, who in times of Peace revenge their own Injuries without any Magistrate, but then in time of War they have Captains or Cacicks amongst them, and when the Expedition is ended, though they pay them reverence and respect, and make them preside in all their Councils and Assemblies, yet they have no Authority in time of Peace to punish or question any man.

2. But to what end are these *Councils or Assemblies* held? If it be only for War, then indeed they have no Civil Government at all amongst them, but every man does that which is right in his own eyes; but yet for all that these people are under the same obligation with other Nations to live under a better Government if they had wit enough to understand it. And I suspect when all is done we are misinformed concerning them; at least I am well assured there

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there must be great Miseries, and many grievous Murders committed amongst such a lawless and ungoverned People, and there would be more if they had any Wealth or Property in any thing that was of value.

3. So that God hath obliged all men alike to live under Civil Government, but some are so barbarous as not to understand and practise their duty.

51. Neither would I (saith he) be thought to encourage Princes to stretch their power to the utmost limits, nor yet to stir up Subjects to take Arms as soon as ever they think themselves injured, since the Populace is but too apt, where they are left to be their own Judges to pronounce Sentence in their own favour.

As for any encouragement Princes are like to derive from such seditious Treatises as this is I wonder what made him think of it. But then if the People may lawfully take Arms, when they are really injured, against their lawful Governours, then may they as well do

(g 3) it

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it as soon as they think themselves so, as after much suffering; for if they be the Judges at all in this Case, they may then pronounce Sentence when they please. But if the Populace are indeed too apt to be partial and unjust, who but such a person as this would have ever trusted them at any time with a power which they are so very apt to abuse?

52. Without doubt Princes ought not to abuse their power, but if they do, their Subjects ought not to take Arms to revenge their quarrel; for whether it be sooner or later, that will not mend the matter, they are Rebels when ever they do it, be the cause what it will, God having never vested the Populace, nor any Subject upon earth with a power of judging the Supreme Powers under which they live.

53. Besides this Gentleman, *Algermon Sidney Esq;* who was beheaded on Tower Hill the seventh day of *December*, in the year 1683. was much incensed against this Piece, and writ a large discourse against it, which was found in his

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his Study when his Papers were searched upon the discovery of the late Plot, and produced against him at his Trial; And in his Paper delivered to the Sheriff at his Execution, he treated this Piece with great passion, but having heretofore Published a defence of *Sir Robert Filmar* in Answer to that Paper, which was Printed by *Mr. Walter Kettilby* at the Bishops head in *St. Pauls Church-yard*. I shall not here trouble the Reader with any thing that relates to *Mr. Sidney*.

54. My intention at first was to have premised a large account of the Origine of Government and Laws; but finding it will swell to too great a Bulk to be put before so small a Treatise as this of *Sir Robert Filmars* is; and that it is a Work of time, I was not willing to delay the Publishing of this true Copy so long: But if it please God to bleſs me with health and time I will publish it in a distinct Piece by it self. And this is one reason why I have made my reflections upon this *Patriarcha non Monarcha* the shorter, expecting then to have another opportunity of answering what I have here passed by.

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The following is a list of the names of the persons who have been appointed to the various offices of the County of Cook, Illinois, for the year 1891:

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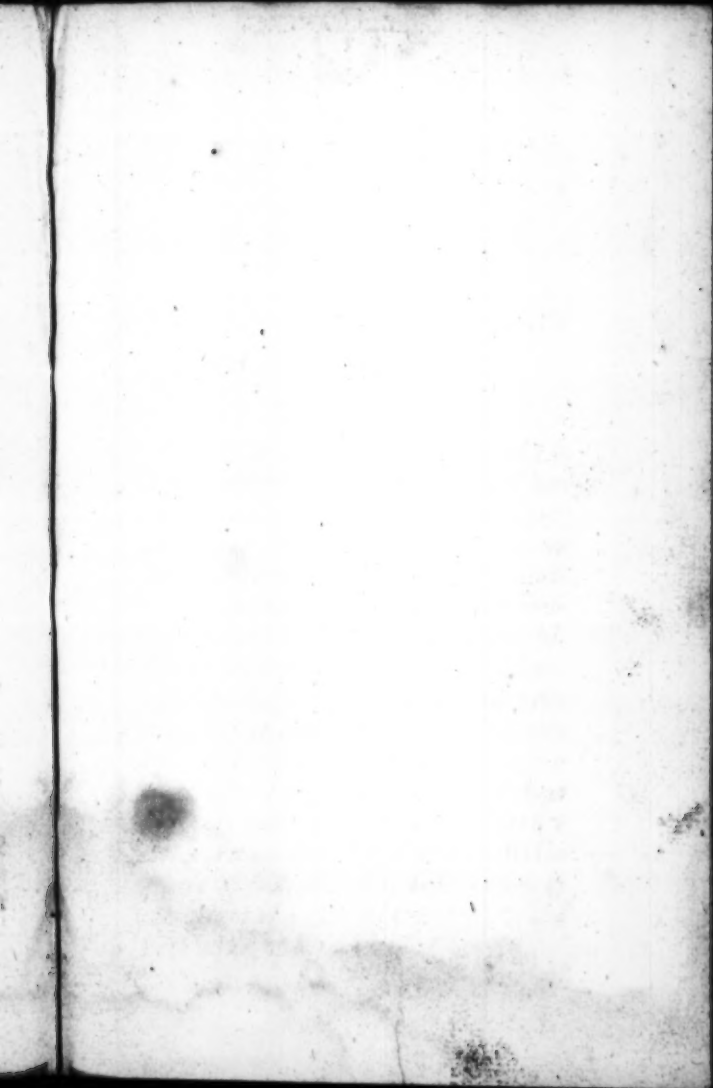
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CHAP. I.

*That the first Kings were
Fathers of Families.*

- (1) **T**HE Tenent of the Natural Liberty of Mankind, New, Plausible, and Dangerous. (2) The Question stated out of Bellarmine: Some Contradictions of his noted. (3) Bellarmine's Argument answered out of Bellarmine himself. (4) The Royal Authority of the Patriarchs before the Flood. (5) The dispersion of Nations over the World after the Confusion of Babel, was by entire Families, over which the Fathers were Kings. (6) And from them all Kings descended. (7) All Kings are either Fathers of their People, (8) Or Heirs of such Fathers, or Usurpers of the Right of such Fathers. (9) Of the Escheating of Kingdoms. (10) Of Re-

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gal and Paternal Power, and their Agreement.

Since the time that School-Divinity began to flourish, there hath been a common Opinion maintained, as well by Divines, as by divers other Learned Men, which affirms,

Mankind is naturally endowed and born with Freedom from all Subjection. and at liberty to choose what Form of Government it please : And that the Power which any one Man hath over others, was at first bestowed according to the discretion of the Multitude.

2. This Tenent was first hatched in the Schools, and hath been fostered by all succeeding Papists for good Divinity. The Divines also of the Reformed Churches have entertained it, and the Common People every where tenderly embrace it, as being most plausible to Flesh and Bloud, for that it prodigally distributes a Portion of Liberty to the meanest of the Multitude, who magnifie Liberty as if the height of Humane Felicity were only to be found in it, never remem-

remembring That the desire of Liberty was the first Cause of the Fall of *Adam*.

3. But howsoever this Vulgar Opinion hath of late obtained a great Reputation, yet it is not to be found in the Ancient Fathers and Doctors of the Primitive Church : It contradicts the Doctrine and History of the Holy Scriptures, the constant Practice of all Ancient Monarchies, and the very Principles of the Law of Nature. It is hard to say whether it be more erroneous in Divinity, or dangerous in Policy.

4. Yet upon the ground of this Doctrine both *Jesuits*, and some other zealous favourers of the *Geneva* Discipline, have built a perillous Conclusion, which is, *That the People or Multitude have Power to punish, or deprive the Prince, if he transgress the Laws of the Kingdom; witness Parsons and Buchanan: the first under the name of Dolman, in the Third Chapter of his First Book labours to prove, that Kings have been lawfully chastised by their Commonwealths: The latter in his Book De jure Regni apud*

Scotos, maintains A Liberty of the People to depose their Prince. Cardinal *Bellarmino* and *Calvin*, both look asquint this way.

5. This desperate Assertion whereby Kings are made subject to the *Censures* and *Deprivations of their Subjects*, follows (as the Authors of it conceive) as a necessary Consequence of that former Position of the supposed *Natural Equality and Freedom of Mankind*, and liberty to chuse what form of Government it please.

6. And though Sir *John Heywood*, *Adam Blackwood*, *John Barclay*, and some others have Learnedly Confuted both *Buchanan* and *Parsons*, and bravely vindicated the Right of Kings in most Points, yet all of them, when they come to the Argument drawn from the *Natural Liberty and Equality of Mankind*, do with one consent admit it for a Truth unquestionable, not so much as once denying or opposing it; whereas if they did but confute this first erroneous Principle, the whole Fabrick of this vast Engine of *Popular Sedition* would drop down of it self.

The

7. The Rebellious Consequence which follows this prime Article of the *Natural Freedom of Mankind* may be my Sufficient Warrant for a modest Examination of the original Truth of it; much hath been said, and by many, for the *Affirmative*; Equity requires that an Ear be reserved a little for the *Negative*.

8. In this DISCOURSE I shall give my self these Cautions:

First, I have nothing to do to meddle with Mysteries of State, such *Arcana Imperii*, or Cabinet-Councils, the Vulgar may not pry into. An implicate Faith is given to the meanest Artificer in his own Craft, how much more is it then due to a Prince in the profound Secrets of Government, the Causes and Ends of the greatest politick Actions and Motions of State dazle the Eyes, and exceed the Capacities of all men, save only those that are hourly versed in the managing Publick Affairs: yet since the Rule for each man to know in what to obey his Prince, cannot be learnt without a relative Knowledge of those Points wherein a Sovereign may

Command, it is necessary when the Commands and Pleasures of Superiours come abroad and call for an Obedience, that every man himself know how to regulate his Actions or his Sufferings; for according to the Quality of the Thing commanded, an Active or Passive Obedience is to be yielded; and this is not to limit the Princes Power, but the extent of the Subjects Obedience, by giving to *Cæsar* the things that are *Cæsar's*, &c.

9. Secondly, I am not to question, or quarrel at the Rights or Liberties of this or any other Nation; my task is chiefly to enquire from whom these first came, not to dispute what, or how many these are; but whether they were derived from the Laws of *Natural Liberty*, or from the *Grace and Bounty of Princes*. My desire and Hope is, that the people of *England* may and do enjoy as ample Privileges as any Nation under Heaven; the greatest Liberty in the World (if it be duly considered) is for a people to live under a *Monarch*. It is the *Magna Charta* of this Kingdom, all other shews or pretexts of Liberty, are but

but several degrees of *Slavery*, and a *Liberty* only to destroy *Liberty*.

10. If such as maintain the Natural Liberty of Mankind, take Offence at the Liberty I take to examine it, they must take heed that they do not deny by Retail, that Liberty which they affirm by Whole-sale: For, if the *Thesis* be true, the *Hypothesis* will follow, that all men may Examine their own Charters, Deeds, or Evidences by which they claim and hold the Inheritance or Freehold of their *Liberties*.

11. Thirdly, I must not detract from the Worth of all those Learned Men, who are of a contrary Opinion in the Point of *Natural Liberty*: the profoundest Scholar that ever was known hath not been able to search out every Truth that is discoverable; neither *Aristotle* in Philosophy, nor *Hooker* in Divinity. They are but Men, yet I reverence their Judgments in most Points, and confess my self beholding to their Errors too in this; something that I found amiss in their Opinions, guided me in the discovery of that Truth which (I persuade my
B 4 self)

self) they missed. A Dwarf sometimes may see that which a Giant looks over; for whilst one Truth is curiously searched after, another must necessarily be neglected. Late Writers have taken up too much upon Trust from the subtle School-men, who to be sure to thrust down the King below the Pope, thought it the safest course to advance the People above the King, that so the Papal Power might take place of the Regal. Thus many an Ignorant Subject hath been fooled into this Faith, that a man may become a *Martyr* for his *Country*, by being a *Traytor* to his *Prince*; whereas the New coyned distinction of Subjects into Royalists and Patriots, is most unnatural, since the relation between King and People is so great, that their well-being is Reciprocal.

H. To make evident the Grounds of this Question, about the *Natural Liberty of Mankind*, I will lay down some passages of Cardinal Bellarmine, that may best unfold the State of this Controversie. *Secular or Civil Power* (saith he) is instituted by Men; It is in the People, unless they bestow it on a Prince. This Power

L. 3. de la-
p. 4. c. 4.

Power is immediately in the whole Multitude, as in the Subject of it; for this Power is by the Divine Law, but the Divine Law hath given this Power to no particular Man—— If the Positive Law be taken away, there is left no Reason, why amongst a Multitude (who are Equal) one rather than another should bear Rule over the rest? —— Power is given by the Multitude to one man, or to more by the same Law of Nature; for the Commonwealth cannot exercise this Power, therefore it is bound to bestow it upon some One Man, or some Few —— It depends upon the Consent of the Multitude to ordain over themselves a King, or Consul, or other Magistrates; and if there be a lawful Cause, the Multitude may change the Kingdom into an Aristocracy or Democracy. Thus far Bellarmine; In which passages are comprised the strength of all that ever I have read, or heard produced for the Natural Liberty of the Subject.

Before I examine or refute these Doctrines, I must a little make some Observations upon his Words.

First,

2. *First*, He saith, that by the Law of God, *Power* is immediately in the People ; hereby he makes God to be the immediate Author of a *Democratical Estate* ; for a *Democracy* is nothing else but the Power of the Multitude. If this be true, not only *Aristocracies*, but all *Monarchies* are altogether unlawful, as being ordained (as he thinks) by Men, when as God himself hath chosen a *Democracy*.

3. *Secondly*, He holds, that although a *Democracy* be the Ordinance of God, yet the People have no power to use the Power which God hath given them, but only power to give away their Power ; whereby it followeth, that there can be no *Democratical Government*, because he saith, the people must give their Power to One Man, or to some Few ; which maketh either a *Regal* or *Aristocratical Estate* ; which the Multitude is tyed to do, even by the same Law of Nature which Originally gave them the Power : And why then doth he say, the Multitude may change the Kingdom into a *Democracy* ?

Thirdly,

4. *Thirdly*, He concludes, that if there be a lawful Cause, the *Multitude* may change the *Kingdom* into an *Aristocracy* or *Democracy*. Here I would fain know who shall judg of this lawful Cause; If the *Multitude* (for I see no body else can) then this is a pestilent and dangerous Conclusion.

III. I come now to examine that Argument which is used by *Bellarmino*, and is the One and only Argument I can find produced by any Author for the proof of the *Natural Liberty of the People*. It is thus framed. *That God hath given or ordained Power, is evident by Scripture; But God hath given it to no particular Person, because by Nature all Men are Equal; therefore he hath given Power to the People; or Multitude.*

2. To Answer this Reason, drawn from the Equality of Mankind by Nature, I will first use the help of *Bellarmino* himself, whose very words are these: *If many men had been together created out of the Earth, they all ought to have been Princes over their Posterity. In these words we have an Evident Confession, that Creation made man Prince of his Posterity. And indeed*

Lib. 1. de
Pontif.
Rom. c. 2.

indeed not only *Adam*, but the succeeding *Patriarchs* had, by Right of Fatherhood, Royal Authority over their Children. Nor dares *Bellarmino* deny this also. "That the *Patriarchs* (saith he) were "endowed with Kingly Power, their "Deeds do testifie; for as *Adam* was Lord of his Children, so his Children under him, had a Command and Power over their own Children; but still with subordination to the First Parent, who is Lord Paramount over his Childrens Children to all Generations, as being the *Grand-father of his People*."

IV. I see not then how the Children of *Adam*, or of any man else can be free from subjection to their *Parents*: And this subjection of Children being the Fountain of all *Regal Authority*, by the Ordination of God himself; It follows, that Civil Power not only in general is by Divine Institution, but even the Assignment of it Specifically to the Eldest Parents, which quite takes away that New and common distinction which refers only Power Universal and Absolute to God; but Power Respective in regard of the Special Form of Government to the

the Choice of the people. Nor leaves it any place for such imaginary Factions between Kings and their People, as many dream of.

2. This Lordship which *Adam* by *Creation* had over the whole World, and by Right descending from him the *Patriarchs* did enjoy, was as large and ample as the Absolute Dominion of any *Monarch* which hath been since the *Creation*: For Dominion of Life and Death, we find that *Judab* the Father pronounced Sentence of Death against *Thamar* his Daughter-in-law, for playing the Harlot; *Bring her forth* (saith he) *that she may be burnt*. Touching War, we see that *Abram* commanded an Army of 318 Soldiers of his own Family. And *Esau* met his Brother *Jacob* with 400 Men at Arms. For matter of Peace, *Abraham* made a League with *Abimelech*, and ratified the *Articles* With an Oath. These Acts of Judging in *Capital Crimes*, of making *War*, and concluding *Peace*, are the chiefest Marks of *Sovereignty* that are found in any *Monarch*.

(5) Nor

Gen. ix.

.V Not only until the *Flood*, but after it, this *Patriarchal Power* did continue, as the very name *Patriarch* doth in part prove. The three Sons of *Noah* had the whole World divided amongst them by their Father; for of them was the whole World over-spread, according to the Benediction given to him and his Sons, *Be fruitful and multiply, and replenish the Earth.* Most of the Civilest Nations of the Earth labour to fetch their Original from some One of the Sons or Nephews of *Noah*, which were scattered abroad after the Confusion of *Babel*: In this Dispersion we must certainly find the Establishment of *Regal Power* throughout the Kingdoms of the World.

2. It is a common Opinion, that at the Confusion of Tongues there were 72 distinct Nations erected, all which were not Confused Multitudes, without Heads or Governours, and at liberty to chuse what Governours or Government they pleased; but they were distinct Families, which had Fathers for Rulers over them; whereby it appears that even in the Confusion God was careful to preserve the Fatherly Authority, by distributing the diversity

diversity of Languages according to the diversity of Families; for so plainly it appears by the Text: First, after the Enumeration of the Sons of *Japhet*, the Conclusion is, *By these were the Isles of the Gentiles divided in their Lands, every one after his Tongue, after their Families, in their Nations*; so it is said, *These are the Sons of Ham after their Families, after their Tongues, in their Countries, and in their Nations.* The like we read, *These are the Sons of Shem after their Families, after their Tongues, in their Lands, after their Nations. These are the Families of the Sons of Noah after their Generations in their Nations*; and by these were these Nations divided in the Earth, after the Flood.

3. In this Division of the World, some are of Opinion that *Noah* used Lots for the distribution of it; others affirm he sayled about the *Mediterranean Sea* in Ten years, and as he went about, appointed to each Son his part, and so made the Division of the then known World into *Asia, Africa, and Europe*, (according to the Number of his Sons) the Limits of which Three Parts are all found in that Midland Sea.

VI. But

VI. But howsoever the manner of this Division be uncertain, yet it is most certain the Division it self was by Families from *Noah* and his Children, over which the Parents were Heads and Princes.

2. Amongst these was *Nimrod*, who no doubt (as *Sir Walter Raleigh* affirms) was by good Right, Lord or King over his Family; yet against Right did he enlarge his Empire, by seizing violently on the Rights of other Lords of Families: And in this sense he may be said to be the Author and first Founder of *Monarchy*. And all those that do attribute unto him the Original Regal power, do hold he got it by Tyranny or Usurpation, and not by any due Election of the People or Multitude, or by any Paction with them.

3. As this *Patriarchal Power* continued in *Abraham*, *Isaac*, and *Jacob*, even until the *Egyptian Bondage*; so we find it amongst the Sons of *Ismael* and *Esau*. It is said, *These are the Sons of Ismael, and these are their Names by their Castles and Towns, Twelve Princes of their Tribes and Families. And these are the Names*

Gen. xxv.
16.

Gen.
xxxvi. 40.

of

of the Dukes that came of Esau, according to their Families and their places by their Nations.

VII. Some perhaps may think that these Princes and Dukes of Families were but some petty Lords under some greater Kings, because the number of them are so many, that their particular Territories could be but small, and not worthy the Title of Kingdoms; but they must consider, that at first, Kings had no such large Dominions as they have now adays; we find in the time of *Abraham*, which was about three hundred years after the Flood, that in a little corner of *Asia*, nine Kings at once met in Battel, most of Gen. xiv. which were but Kings of Cities apiece, with the adjacent Territories, as of *Sodom*, *Gomorrhah*, *Shinar*, &c. In the same Chapter is mention of *Melchisedeck* King of *Salem*, which was but the City of *Jerusalem*. And in the Catalogue of the Kings of *Edom*, the Names of each King's City is recorded, as the only Mark to distinguish their Dominions. In the Land of *Canaan*, which was but a small circuit, *Joshuah* destroyed Thirty one Kings; and about the same time, *Adonibefack* had 70 Kings,

C

Kings,

Kings, whose Hands and Toes he had cut off, and made them feed under his Table. A few years after this, thirty two Kings came to *Benhadad* King of *Syria*, and about Seventy Kings of *Greece* went to the Wars of *Troy*. *Caesar* found more Kings in *France*, than there be now Provinces there, and at his Sailing over into this Island, he found four Kings in our County of *Kent*. These heaps of Kings in each Nation, are an Argument their Territories were but small, and strongly confirms our Assertion, that Erection of Kingdoms came at first only by distinction of Families.

2. By manifest Footsteps we may trace this Paternal Government unto the *Israelites* coming into *Egypt*, where the Exercise of Supreme Patriarchal Jurisdiction was intermitted, because they were in subjection to a stronger Prince. After the Return of these *Israelites* out of Bondage, God out of a special Care of them, chose *Moses* and *Joshuah* successively to govern as Princes in the Place and stead of the Supreme Fathers: and after them likewise for a time, he raised up Judges, to defend his People in time of Peril.

But

But when God gave the *Israelites* Kings, he re-established the Ancient and Prime Right of Lineal Succession to Paternal Government. And whensoever he made choice of any special Person to be King, he intended that the Issue also should have benefit thereof, as being comprehended sufficiently in the Person of the Father, although the Father only was named in the Grant.

VIII. It may seem absurd to maintain that Kings now are the Fathers of their People, since Experience shews the contrary. It is true, all Kings be not the Natural Parents of their Subjects, yet they all either are, or are to be reputed the next Heirs to those first Progenitors, who were at first the Natural Parents of the whole People, and in their Right succeed to the Exercise of *Supreme Jurisdiction*; and such Heirs are not only Lords of their own Children, but also of their Brethren; and all others that were subject to their Fathers: And therefore we find, that God told *Cain* of his Brother *Abel*, *His Desires shall be subject unto thee, and thou shalt rule over him.* Accordingly, when *Jacob* bought his Brothers Birth-right,

Gen.
xxvii. 29.

right, *Isaac* blessed him thus, *Be Lord over thy Brethren, and let the Sons of thy Mother bow before thee.* So we find, that at the offering of Princes at the Dedication of the Tabernacle the Princes of *Israel* are said to be Heads of the Houses of their Fathers, as *Elias* the Son of *He- lon* was Prince of the Children of his Father *Zebulon*, Num. 7. 24.

2. As long as the first Fathers of Families lived, the name of *Patriarchs* did aptly belong unto them; but after a few Descents, when the true Fatherhood it self was extinct, and only the Right of the Father descended to the true Heir, then the Title of *Prince* or *King* was more *Significant*, to express the Power of him who succeeds only to the Right of that Fatherhood which his Ancestors did *Naturally* enjoy. By this means it comes to pass, that many a Child, by succeeding a King, hath the Right of a Father over many a Gray-headed Multitude, *and hath the Title of Pater Patriæ.*

IX. It may be demanded what becomes of the Right of *Fatherhood*, in Case the Crown does escheate for want of an Heir ?

Heir? Whether doth it not then Devolve to the People? The Answer is,

1. It is but the Negligence or Ignorance of the People to lose the Knowledge of the true Heir: for an Heir there always is. If *Adam* himself were still living, and now ready to die, it is certain that there is One Man, and but One in the World who is next Heir, although the Knowledge who should be that one Man be quite lost.

2. This Ignorance of the People being admitted, it doth not by any means follow; that for want of Heirs the Supreme Power is devolved to the Multitude, and that they have Power to Rule, and Chuse what Rulers they please. No, the Kingly Power escheats in such Cases to the Prime and independent Heads of Families: for every Kingdom is resolved into those principles whereof at first it was made. By the Uniting of great Families or petty Kingdoms, we find the greater *Monarchies* were at the first erected; and into such again, as into their first Matter many times they return again. And because the dependency of

ancient Families is oft obscure or worn out of Knowledge ; therefore the wisdom of All or Most Princes have thought fit to adopt many times those for Heads of Families, and Princes of Provinces, whose Merits, Abilities, or Fortunes, have enobled them, or made them fit and capable of such Regal Favours. All such prime Heads and Fathers have power to consent in the uniting or conferring of their Fatherly Right of Sovereign Authority on whom they please: And he that is so Elected, claims not his Power as a *Donative* from the People ; but as being substituted properly by God, from whom he receives his *Royal Charter* of an *Universal Father*, though testified by the Ministry of the Heads of the People.

3. If it please God, for the Correction of the Prince, or punishment of the People, to suffer Princes to be removed, and others to be placed in their rooms, either by the Factions of the Nobility, or Rebellion of the People ; in all such cases, the Judgment of God, who hath power to give and to take away Kingdoms, is most just: yet the Ministry of men who execute God's Judgments without Commission, is sinful

sinful and damnable. God doth but use
and turn mens *Unrighteous Acts* to the
performance of his *Righteous Decrees*.

X. In all Kingdoms or Common-
wealths in the World, whether the
Prince be the Supreme Father of the
People, or but the true Heir of such a
Father, or whether he come to the Crown
by Usurpation, or by Election of the No-
bles, or of the People, or by any other
way whatsoever; or whether some few or
a Multitude govern the Commonwealthe
yet still the Authority that is in any One,
or in Many, or in All these, is the only
Right and Natural Authority of a Su-
preme Father. There is, and always shall
be continued to the End of the World, a
Natural Right of a Supreme Father over
every Multitude, although by the secret
Will of God, many at first do most un-
justly obtain the Exercise of it.

2. To confirm this Natural Right of
Regal Power, we find in the *Decalogue*,
That the Law which enjoyns Obedience
to Kings, is delivered in the terms of *Ho-
nour thy Father*, as if all power were ori-
ginally in the Father. If Obedience to

Parents be immediately due by a *Natural Law*, and subjection to Princes, but by the Mediation of an *Humane Ordinance*; what reason is there that the *Laws of Nature* should give place to the *Laws of Men*? As we see the power of the Father over his Child, gives place, and is subordinate to the power of the Magistrate.

3. If we compare the Natural Rights of a Father with those of a King, we find them all one, without any difference at all, but only in the Latitude or Extent of them: as the Father over one Family, so the King as Father over many Families extends his care to preserve, feed, cloath, instruct, and defend the whole Commonwealth. His War, his Peace, his Courts of Justice, and all his Acts of Sovereignty tend only to preserve and distribute to every subordinate and inferiour Father, and to their Children, their Rights and Priviledges; so that all the Duties of a King are summed up in an Universal Fatherly Care of his People.

CHAP,

CHAP. II.

*It is unnatural for the People
to Govern, or Chuse Gover-
nours.*

- (1) **A**ristotle examined about the Freedom, of the People, and justified. (2) Suarez disputing against the Regality of Adam. (3) Families diversly defined by Aristotle, Bodin, and others. (4) Suarez contradicting Bellarmine. (5) Of Election of Kings. (6) By the Major part of the People. (7) By Proxy, and by silent Acceptation. (8) No example in Scripture of the Peoples chusing their King, Mr. Hooker's Judgment therein. (9) God governed always by Monarchy. (10) Bellarmine and Aristotle's Judgment of Monarchy. (11) Imperfections of the Roman Democracy. (12) Rome began

began her Empire under Kings, and perfected under Emperours. In danger, the People of Rome always fled to Monarchy. (13) Whether Democracies were invented to bridle Tyrants, or rather that they came in by Stealth. (14) Democracies vilified by their own Historians. (15) Popular Government more bloody than Tyranny. (16) Of a mixed Government of the King and People. (17) The People may not judge or correct their King. (18) No Tyrants in England since the Conquest.

BY conferring these Proofs and Reasons drawn from the Authority of the Scripture, it appears little less than a Paradox which *Bellarmino* and others affirm of the Freedom of the *Multitude*, to chuse what Rulers they please.

2. Had the *Patriarchs* their Power given them by their own Children? *Bellarmino* does not say it, but the Contrary: If then the Fatherhood enjoyed this Authority for so many Ages by the Law of Nature, when was it lost, or when

when forfeited, or how is it devolved to the Liberty of the *Multitude*?

2. There are two places cited out of the Civil Law which do seem much to strengthen the opinion of *Grotius* about Natural Community, though they be not Alledged by him, yet they are fit to be considered; because they are Authorities of the greatest Antiquity in this point, and the Foundation upon which the late Schoolmen have built. In the *Digest* there is first this Principle, *Jure Naturali omnes homines liberi nascuntur.* Secondly, The Law there, speaking of the Prince, saith, *Populus ei, & in Eum omne suum imperium & potestatem confert.* For a general Answer to both these two Texts of the Civil Law, it must be remembered; that the grounds of this Law are but the opinions of Heathens, that knew not, or at least believed not the History of the Scriptures, or of the Creation: and that this Law was fitted properly for the Commonwealth and Empire of the Romans. For these causes it is no great wonder if the Principles of the Roman Laws vary from the Rules of Scripture.

Scripture and Customs of other Nations.

3. To Answer in particular to the first Text it may be said, the sense of these words, *By the Law of Nature all men are born free*, must needs mean a freedom only, that is opposite to such subjection as is between Father and Son. This is made manifest by the Text of the Law: For *Ulpian* in that place speaketh only of Manumission, which is a setting at liberty of Servants from servitude, and not of Emancipation, which is the freeing of Children from the Fathers Tuition. Servitude, as the Law teacheth, is a Constitution of the Law of Nations, by which a man is subject to the Dominion of any other man against Nature. So not every Subjection is *Servitude*; but Subjection contrary to the Law of Nature. Yet every man is born subject to the power of a Father. This the Law it self saith, *In Potestate nostra liberi nostri sunt*; and *Ulpian* teacheth, that the Education of Children is by the Law of Nature, so that *Quicquid ex me & Uxore mea Nascitur in potestate mea est*.

For

4 For Answer to the second Text, *That the People bestow all the Power upon the Prince.* Certainly the Law there intends no more than to note the particular Fact of the People of *Rome*, and not a general right of all other People. When *Julius* and *Augustus* had successively taken the Power into their hands, the People of *Rome* very bountifully by a Royal Law bestowed that Power upon *Augustus* which he before had taken upon him. This Act of the People the Law mentioned, not to prove the right of all People to give Power to Princes, but produceth it against the People, to shew them, that by their own Act the Prince was free from all Laws: And therefore in the very same place the Civil Law doth conclude, that what pleased the Prince, had the Vigour of the Law, or whatsoever the Emperour Ordained by his *Epistles*, or *Rescripts*, or Commanded upon Mature deliberation, or by *Edict*, was a Law. The Title of the Law, *De Constitutione Principum*, is not concerning the Ordaining of Princes by the People, but the Ordaining of Laws by the Princes.

Because

5. Because the Scripture is not favourable to the Liberty of the People; therefore many fly to Natural Reason, and to the Authority of *Aristotle*. I must crave Liberty to examine or explain the Opinion of this great Philosopher; but briefly, I find this Sentence in the Third of his *Politicks*, *Cap. 16.* *ὅτι δὲ τὸν αἰσίων ἢ τὸ κύριον ἐν παντί τῶν πολιτῶν, ὅτι οὐδέποτε ἐξ ὁμοίων ἢ πόλει.* It seems to some not to be natural for one man to be Lord of all the Citizens, since a City consists of Equals. *Dr Lambine* in his *Latine Interpretation* of this Text, hath omitted the Translation of this word [*τὸν*] by this means he maketh that to be the Opinion of *Aristotle*, which *Aristotle* alledgeth to be the Opinion but of some. This Negligent, or Wilsul Escape of *Lambine*, in not translating a word so Material, hath been an occasion to deceive many, who looking no farther than this *Latine Translation*, have concluded, and made the World now of late believe, that *Aristotle* here maintains a *Natural Equality* of Men; and not only our *English Translator* of *Aristotle's Politicks* is in this place misled by following

ing *Lambine*; but even the learned *Mon-*
sieur Duval in his Analytical *Synopsis*
 bears them company: And yet this
 Version of *Lambine's* is esteemed the best,
 and Printed at *Paris* with *Casaubon's* cor-
 rected *Greek* Copy, though in the ren-
 dering of this place, the other Transla-
 tions have been more faithful; and he
 that shall compare the *Greek* Text with
 the *Latine*, shall find that *Casaubon* had
 just cause in his Preface to *Aristotle's*
 Works, to complain that the best Tran-
 slations of *Aristotle* did need Correction.
 To prove that in these words which
 seem to favour the Equality of Mankind,
Aristotle doth not speak according to
 his own Judgment, but recites only
 the Opinion of others; we find him
 clearly deliver his own Opinion, that
 the Power of Government did original-
 ly arise from the Right of Fatherhood,
 which cannot possibly consist with that
Natural Equality which Men dream of:
 for in the First of his *Politicks* he
 agrees exactly with the Scripture, and
 lays this Foundation of Government,
 The first Society (saith he) made of
 many Houses is a Village, which seems
 most naturally to be a Colony of Fami-
 lies

lies or foster Brethren of Children and Childrens Children. And therefore at the beginning Cities were under the Government of Kings, for the eldest in every House is King: And so for Kindred sake it is in Colonies. And in the fourth of his Politicks, *cap. 2.* He gives the Title of the first and Divine sort of Government to the Institution of Kings, by Defining *Tyranny* to be a Digression from the First and *Divinest*.

6. Whosoever weighs advisedly these passages, will find little hope of *Natural Reason* in *Aristotle* to prove the *Natural Liberty* of the *Multitude*. Also before him the Divine *Plato* concludes a Commonwealth to be nothing else but a large Family. I know for this Position *Aristotle* quarrels with his *Master*, but most unjustly; for therein he contradicts his own Principles: for they both agree to fetch the Original of Civil Government from the prime Government of Families. No doubt but *Moses's* History of the Creation guided these two Philosophers in finding out of this *Lineal Subjection* deduced from the *Loyns* of the *First Parents*, according to that Rule
of

Of St. Chrysostom, God made all Mankind of One Man, that he might teach the World to be Governed by a King, and not by a Multitude.

7. The Ignorance of the Creation, occasioned several Errors amongst the *Heathen Philosophers*. *Polybius*, though *Lib. vi.* otherwise a most profound Philosopher, and a Judicious Historian, yet here he stumbles; for in searching out the Original of Civil Societies, he conceited, That *Multitudes of Men after a Deluge, a Famine, or a Pestilence, met together like Herds of Cattel without any Dependency, until the strongest Bodies and boldest Minds got the Mastery of their Fellows;* even as it is (saith he) among *Bulls, Bears and Cocks*.

8. And *Aristotle* himself, forgetting his *Pol. i. lib.* first Doctrine, tells us, the first *Heroical* *cap. 14* *Kings* were chosen by the People for their deserving well of the Multitude; either by teaching them some New Arts, or by Warring for them, or by Gathering them together, or by dividing Land amongst them; also *Aristotle* had another Fancy, *Pol. i. l.* that those Men who prove wise of Mind, *cap. 2.*

D were

were by Nature intended to be Lords, and Govern, and those which were Strong of Body were ordained to obey, and to be Servants. But this is a dangerous and uncertain Rule, and not without some Folly; for if a man prove both *Wise* and *Strong*, what will *Aristotle* have done with him? As he was *Wise*, he could be no Servant, and as he had *Strength*, he could not be a Master; besides, to speak like a Philosopher, *Nature* intends all things to be perfect both in *Wit* and *Strength*. The Folly or Imbecillity proceeds from some Error in Generation or Education; for Nature aims at *Perfection* in all her Works.

De Legib.
1. lii. c. 2.

II. *Suarez* the Jesuit riseth up against the Royal Authority of *Adam*, in defence of the Freedom and Liberty of the people; and thus argues: "By Right of Creation (saith he) *Adam* had only *Oeconomical* power, but not *Political*; he had a power over his Wife, and a Fatherly power over his Sons, whilst they were not made Free: he might also in process of Time have Servants and a Compleat Family; and in that Family he might have compleat *Oeconomical*

"nomical Power. But after that Families
 "began to be multiplied, and Men to be
 "separated, and become the Heads of
 "several Families; they had the same
 "power over their Families. But *Politi-*
 "tical Power did not begin, until Fam-
 "lies began to be gathered together into
 "one perfect Community; wherefore as
 "the Community did not begin by the
 "Creation of *Adam*, nor by his Will
 "alone, but of all them which did agree
 "in this Community: So we cannot say
 "that *Adam* Naturally had Political Pri-
 "macy in that Community; for that
 "cannot be gathered by any Natural
 "Principles, because by the Force of the
 "Law of Nature alone, it is not due un-
 "to any Progenitor, to be also King of
 "his Posterity. And if this be not ga-
 "thered out of the Principles of Nature,
 "we cannot say, God by a special Gift
 "or Providence gave him this Power;
 "For there is no Revelation of this, nor
 "Testimony of Scripture. Hitherto
Suarez.

2. Whereas he makes *Adam* to have a
 Fatherly power over his Sons, and yet
 shuts up this power within one Family,

he seems either to imagine, that all *Adam's* Children lived within one House, and under one Roof with their Father; or else, as soon as any of his Children lived out of his House, they ceased to be subject, and did thereby become Free. For my part, I cannot believe that *Adam* (although he were sole Monarch of the World) had any such spacious Palace, as might contain any such Considerable part of his Children. It is likelier, that some mean Cottage or Tent did serve him to keep his Court in. It were hard he should lose part of his Authority, because his Children lay not within the Walls of his House. But if *Suarez* will allow all *Adam's* Children to be of his Family, howsoever they were separate in Dwellings; if their Habitations were either contiguous, or at such Distance, as might easily receive his Fatherly Commands. And that all that were under his Commands, were of his Family, although they had many Children or Servants married, having themselves also Children. Then I see no reason, but that we may call *Adam's* Family a Commonwealth, except we will wrangle about Words: For *Adam* living

living 930 years, and seeing seven or eight Descents from himself, he might live to command of his Children and their Posterity a Multitude far bigger, than many Commonwealths and Kingdoms.

III. I know the *Politicians* and *Civil Lawyers* do not agree well about the Definition of a Family, and *Bodin* doth seem in one place to confine it to a House; yet in his Definition, he doth enlarge his meaning to all *Persons* under the *Obedience* of One and the Same Head of the Family; and he approves better of the propriety of the *Hebrew* Word for a Family, which is derived from a Word that signifies a Head, a Prince, or Lord, than the *Greek* Word for a Family, which is derived from οἶκος, which signifies a House. Nor doth *Aristotle* confine a Family to One House; but esteems it to be made of those that daily converse together: whereas before him, *Charondas* called a Family *Homosypioi*, those that feed together out of one common *Pannier*. And *Epimenides* the *Cretian*, terms a Family *Homocapnoi*, those that sit by a Common Fire or Smoak. But let *Suarez*

Lib. I. c. 3.

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understand what he please by *Adam's* Family; if he will but confess, as he needs must, that *Adam* and the *Patriarchs* had Absolute power of Life and Death, of Peace and War, and the like, within their Houses or Families; he must give us leave at least, to call them Kings of their Houses or Families; and if they be so by the Law of Nature, what Liberty will be left to their Children to dispose of?

2. *Aristotle* gives the Lie to *Plato*, and those that say: *Political* and *Oeconomical* Societies are all one, and do not differ *Specie*, but only *Magnitude* & *Partirare*; as if there were no difference betwixt a Great House and a Little City. All the Argument I find he brings against them is this.

Arist. Pol.
Lib. I. c. 2.

3. The Community of Man and Wife, differs from the Community of Master and Servant, because they have several Ends. The Intention of Nature by Conjunction of Male and Female, is Generation; but the Scope of Master and Servant, is Preservation: so that a Wife and a Servant are by Nature distinguished, because Nature does not work like the

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Cutlers of Delphos, for she makes but one thing for one Use. If we allow this Argument to be sound, nothing doth follow but only this, That Conjugal and Despotical Communities do differ. But it is no consequence, That therefore, *Oeconomical* and *Political* Societies do the like: For though it prove a Family to consist of two distinct Communities, yet it follows not, that a Family and a Commonwealth are distinct; because, as well in the Commonwealth, as in the Families, both these Communities are found.

4. And as this Argument comes not home to our Point, so it is not able to prove that Title which it shews for; for if it should be granted (which yet is false) that *Generation* and *Preservation* differ about the *Individuum*, yet they agree in the General, and serve both for the Conservation of Mankind; Even as several Servants differ in the particular Ends or Offices; as one to Brew, and another to Bake; yet they agree in the general Preservation of the Family. Besides, *Aristotle* himself confesses, that amongst the *Barbarians* (as he calls all them that are not *Grecians*) a Wife

and a Servant are the same, because by Nature, no *Barbarian* is fit to Govern; It is fit the *Grecians* should rule over the *Barbarians*; for by Nature a Servant and a *Barbarian* is all one; their Family consists only of an Ox for a Manservant, and a Wife for a Maid; so they are fit only to rule their Wives and their Beasts. Lastly, *Aristotle* (if it had pleased him) might have remembred, That Nature doth not always make one Thing but for one Use: he knows, the Tongue serves both to Speak, and to Taste.

IV. But to leave *Aristotle*, and return to *Suprez*; he saith that *Adam* had Fatherly Power over his Sons, whilst they were not made Free. Here I could wish that the Jesuite had taught us, how and when Sons become Free; I know no means by the Law of Nature. It is the Favour I think of the Parents only, who when their Children are of Age and Discretion to ease their Parents of part of their Fatherly Care, are then content to remit some part of their Fatherly Authority; therefore the Custom of some Countrys doth in some Cases

Cases Enfranchise the Children of Inferiour Parents, but many Nations have no such Custom, but on the contrary have strict Laws for the Obedience of Children: the Judicial Law of *Moses* giveth full power to the Father to stone his disobedient Son, so it be done in presence of a Magistrate; And yet it did not belong to the Magistrate to enquire and examine the justness of the Cause; But it was so decreed, lest the Father should in his Anger, suddenly, or secretly kill his Son.

2. Also by the Laws of the *Persians*, and of the People of the Upper *Asia*, and of the *Gauls*, and by the Laws of the *West-Indies*, the Parents have power of Life and Death over their Children.

3. The *Romans*, even in their most Popular Estate, had this Law in force, and this Power of Parents was ratified and amplified by the Laws of the Twelve Tables, to the enabling of Parents to sell their Children two or three times over, By the help of the Fatherly Power, *Rome* long flourished, and oftentimes was freed from great Dangers. The Fathers have

have

have drawn out of the very *Assemblies* their own Sons; when being *Tribunes*; they have published Laws tending to Sedition.

4. Memorable is the Example of *Cassius*, who threw his Son headlong out of the Consistory, publishing the Law *Agraria*, for the Division of Lands, in the behoof of the people; and afterwards, by his own private Judgment put him to Death, by throwing him down from the *Tarpeian* Rock; the Magistrates and People standing thereat amazed, and not daring to resist his Fatherly Authority, although they would with all their Hearts, have had that Law for the Division of Land: by which it appears, it was lawful for the Father to dispose of the Life of his Child, contrary to the Will of the Magistrates or People. The *Romans* also had a Law, that what the Children got, was not their own, but their Fathers; although *Solon* made a Law, which acquitted the Son from Nourishing of his Father, if his Father had taught him no Trade, whereby to get his Living.

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5. *Suarez* proceeds, and tells us, That in Process of Time, *Adam* had compleat *Oeconomical* Power. I know not what he meaneth by this compleat *Oeconomical* Power, nor how, or what it doth really and essentially differ from Political: If *Adam* did, or might exercise in his Family the same Jurisdiction, which a King doth now in a Commonwealth, then the Kinds of Power are not distinct; and though they may receive an Accidental Difference by the Amplitude, or Extent of the Bounds of the One beyond the Other; yet since the like Difference is also found in Political Estates, It follows that *Oeconomical* and Political Power, differ no otherwise, than a Little Commonwealth differs from a Great One. Next, saith *Suarez*, *Community* did not begin at the Creation of *Adam*. It is true, because he had no body to Communicate with; yet *Community* did presently follow his Creation, and that by his Will alone: for it was in his power only, (who was Lord of All) to appoint what his Sons should have in Proper, and what in Common, so that *Propriety* and *Community* of Goods did follow Originally from Him; and it is the Duty of a Father, to provide

provide as well for the Common Good of his Children, as for their Particular,

6. Lastly, *Suarez* Coneludes, That by the Law of Nature alone, it is not due unto any Progenitor, to be also *King* of his *Posterity*. This Assertion is confuted point-blank by *Bellarmino*, who expressely affirmeth,* That the First Parents ought to have been Princes of their posterity, And until *Suarez* bring some reason for what he saith : I shall trust more to *Bellarmino's* Proofs, than to his Denials.

V. But let us Condescend a while to the Opinion of *Bellarmino*, *Grocius*, and *Suarez*, and all those, who place Supreme power in the Whole People ; and ask them if their meaning be, That there is but one and the same power in All the people of the World ; so that no power can be granted, except all the Men upon the Earth meet and agree, to chuse a Governour,

2. An Answer is here given by *Suarez*, That it is scarce possible, nor yet expedient, that All Men in the World should be gathered together into One Community ;

nity: It is likelier, that either never, or for a very short time, that this power was in this manner, in the whole Multitude of Men collected; but a little after the Creation, men began to be divided into several Commonwealths; and this distinct power was in Each of them.

3. This Answer of *Scarce possible, nor yet Expedient*: and it is likelier, begets a new doubt, how this Distinct power comes to each particular Community, when God gave it to the whole Multitude only, and not to any particular Assembly of Men. Can they shew, or prove, that ever the whole Multitude met, and divided this power which God gave them in Gross, by breaking into parcels, and by appointing a distinct power to each several Commonwealth? Without such a Compact I cannot see (according to their own Principles) how there can be any Election of a Magistrate by any Commonwealth, but by a meer Usurpation upon the privilege of the whole World. If any think that particular Multitudes at their own Discretion, had power to divide themselves.

selves into several Commonwealths; those that think so, have neither Reason nor Proof for so thinking: and thereby a Gap is opened for every petty Factious Multitude, to raise a New Commonwealth, and to make more Commonwealths than there be Families in the World. But let this also be yielded them, That in each particular Commonwealth, there is a Distinct Power in the Multitude. Was a General Meeting of a Whole Kingdom ever known for the Election of a Prince? Is there any Example of it ever found in the Whole World? To conceit such a thing, is to imagine little less than an Impossibility. And so by Consequence, no one Form of Government, or King, was ever established according to this supposed Law of Nature.

VI. It may be answered by some, That if either the Greatest part of a Kingdom, or if a smaller part only by Themselves, and all the Rest by *Proxy*, or if the part not concurring in Election, do after, by a *Tacit Assent* ratifie the Act of Others, That in all these Cases, it may be said to be the Work of the whole Multitude. As

2. As to the Acts of the Major part of a Multitude, it is true, that by Politick Humane Constitutions, it is oft ordain'd, that the Voices of the most shall overrule the Rest; and such Ordinances bind, because, where Men are Assembled by an Humane Power; that power that doth Assemble them, can also Limit and Direct the manner of the Execution of that Power, and by such *Derivative* Power, made known by Law or Custom, either the greater part, or two Thirds, or Three parts of Five, or the like, have power to oversway the Liberty of their Opposites. But in Assemblies that take their Authority from the Law of Nature, it cannot be so: for what Freedom or Liberty is due to any Man by the Law of Nature, no Inferiour Power can alter, limit, or diminish; no One Man, nor a Multitude can give away the Natural Right of another. The Law of Nature is unchangeable, and howsoever One Man may hinder another in the Use or Exercise of his Natural Right, yet thereby No Man loseth the Right of it self; for the Right and the Use of the Right may be distinguished

stinguished, as Right and Possession are oft distinct. Therefore, unless it can be proved by the Law of Nature, that the *Major*, or some other part, have Power to over-rule the Rest of the Multitude; It must follow, that the Acts of *Multitudes* not Entire, are not Binding to All, but only to such as Consent unto them.

VII. 2. As to the point of *Proxy*; it cannot be shewed or proved, That all those that have been Absent from Popular Elections, did ever give their Voices to some of their Fellows. I ask but one Example out of the History of the whole World, let the Commonweal be but named, wherever the Multitude, or so much as the Greatest part of it consented, either by Voice, or by Procuration, to the Election of a Prince. The Ambition sometimes of One Man, sometimes of Many, or the Faction of a City or Citizens, or the Mutiny of an Army, hath set up or put down Princes; but they have never tarried for this pretended Order by proceeding of the whole *Multitude*.

Lastly,

Lastly, If the silent Acceptation of a Governour by part of the People, be an Argument at their Concurring in the Election of him; by the same Reason, the Tacit Assent of the whole Commonwealth may be maintained: From whence it follows, that every Prince that comes to the Crown, either by *Succession*, *Conquest*, or *Usurpation*, may be said to be Elected by the People; which Inference is too ridiculous; for in such Cases, the People are so far from the Liberty of *Specification*, that they want even that of *Contradiction*.

VIII. But it is in vain to argue against the Liberty of the People in the Election of Kings, as long as Men are persuaded, that Examples of it are to be found in Scripture. It is fit therefore, to discover the Grounds of this Error: It is plain by an Evident Text, that it is one thing to choose a King, and another thing to set up a King over the People. This latter Power the Children of *Israel* had, but not the former. This Distinction is found most evident in *Deut. 17. 15.* where the Law of God
E faith,

saith, Him shalt thou set King over thee, whom the Lord shall choose; so God must Eligere, and the People only do Constitutere. Mr. Hooker in his Eighth Book MS. of Ecclesiastical Policy, clearly expounds this Distinction; the words are worthy the citing: *Heaps of Scripture* (saith he) are alledged, concerning the Solemn Coronation or Inauguration of Saul, David, Solomon and others, by Nobles, Ancients, and the People of the Commonwealth of Israel; as if these Solemnities were a kind of Deed, whereby the Right of Dominion is given; which strange, untrue, and unnatural conceits, are set abroad by Seed men of Rebellion, onely to animate unquiet Spirits, and to feed them with possibilities of Aspiring unto the Thrones, if they can win the Hearts of the People; whatsoever Hereditary Title any other before them may have. I say these unjust and insolent Positions, I would not mention, were it not thereby to make the Countenance of Truth more Orient. For unless we will openly declare Desiance unto all Law, Equity and Reason, we must (for there is no other Remedy) acknowledg, that in Kingdoms Hereditary, Birth-right giveth

giveth Right unto Sovereign Domini-
on, and the Death of the Predecessor,
putteth the Successor by Blood in Set-
tin. Those publick Solemnities before-
mentioned, do either serve for an open
Testification of the Inheritor's Right,
or belong to the Form of inducing
of him into possession of that thing he
hath Right unto. This is Mr. Hooker's
Judgment of the Isralites Power to
set a King over themselves. No doubt,
but if the people of Israel had had pow-
er to chuse their King, they would ne-
ver have made Choice of Joas, a Child
but of Seven years old; nor of Manaf-
ses a Boy of Twelve; since (as Solomon
saith) *Wo to the Land whose King is
a Child*: Nor is it probable they would
have Elected Josias, but a very Child,
and a Son to so Wicked and Idola-
trous a Father, as that his own Ser-
vants murdered him; and yet all the
people set up this young Josias, and
slew the Conspirators of the Death of
Ammon his Father; which Justice of the
People, God rewarded, by making this
Josias the most Religious King, that ever
that Nation enjoyed.

IX. Because it is affirmed, that the People have power to choose, as well what Form of Government, as what Governours they please; of which mind is *Bellarmino*, in those places we cited at first. Therefore it is necessary to Examine the Strength of what is said in Defence of popular Commonwealths, against this Natural Form of Kingdoms, which I maintain. Here I must first put you in mind of what the Cardinal affirms in *Gold Bloud*, in other places; where he saith, God when he made all Mankind of One Man, did seem openly to signifie, that he rather approved the Government of One Man, than of Many. Again, God shewed his Opinion, when he created not onely Men, but all Creatures with a Natural Propensity to Monarchy; neither can it be doubted, but a Natural Propensity is to be referred to God, who is Author of Nature. And again; in a third place, What form of Government God confirmed by his Authority, may be gathered by that Commonweal, which he instituted amongst the *Hebrews*, which

which was not *Aristocratical*, (as *Calvin* saith) but plainly *Monarchical*.

X. Now if God, (as *Bellarmino* saith) hath taught us by Natural Instinct, signified to us by the Creation, and confirmed by his own Example the Excellency of Monarchy, why should *Bellarmino* or We doubt, but that it is Natural? Do we not find, that in every Family, the Government of One Alone, is most Natural? God did always govern his own People by Monarchy onely. The *Patriarchs*, *Dukes*, *Judges* and *Kings* were all Monarchs. There is not in all the Scripture, Mention or Approbation of any other Form of Government. At the time when Scripture saith, *There was no King in Israel, but that every Man did that which was Right in his Own Eyes*; Even then; the *Israelites* were under the Kingly Government of the Fathers of particular Families: For in the *Consultation*, after the *Benjamitical War*, for providing Wives for the *Benjamites*, we find, the Elders of the Congregation bare onely Sway. *Judges 21. 16.* To them also were

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Complaints to be made, as appears by *Verse 22.* And though mention be made of All the Children of *Israel*, All the *Congregation*, and All the *People*; yet by that Term of *All*, the Scripture means only All the Fathers, and not All the Whole Multitude, as the Text plainly expounds it self in *2 Chron. 1. 2.* where *Solomon* speaks unto all *Israel*, to the *Captains*, the *Judges*, and to Every Governour the Chief of the Fathers; so the Elders of *Israel* are expounded to be the Chief of the Fathers of the Children of *Israel*, *1 Kings 8. 12. 2 Chron. 5. 2.*

2. At that time also, when the People of *Israel* beg'd a King of *Samuel*, they were Governed by Kingly Power. God out of a special Love and Care to the House of *Israel*, did chuse to be their King himself, and did govern them at that time by his *Viceroy Samuel*, and his Sons; and therefore God tells *Samuel*, *They have not rejected Thee but Me, that I should not reign over them.* It seems they did not like a King by Deputation, but desired one by Succession, like all the Nations. All Nations

Nations belike had Kings then, and those by Inheritance, not by Election : for we do not find the *Israelites* prayed, that they themselves might chuse their Own King ; they dream of no such Liberty, and yet they were the Elders of *Israel* gathered together. If other Nations had Elected their own Kings, no doubt but they would have been as desirous to have imitated Other Nations as well in the *Electing*, as in the Having of a King.

3. *Aristotle* in his Book of *Politicks*, when he comes to compare the several Kinds of Government, he is very reserved in discovering what Form he thinks best : he disputes subtilly to and fro of many Points, and Judiciously censures many Errours, but concludes nothing himself. In all those Books, I find little in Commendation of Monarchy. It was his Hap to live in those times when the *Grecians* abounded with several Commonwealths, who had then Learning enough to make them seditious. Yet in his *Ethicks* he hath so much good Manners, as to confess in right down words, *That*

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Monarchy

Monarchy is the Best Form of Government; and a Popular Estate the Worst.
 And though he be not so free in his *Politicks*, yet the Necessity of Truth hath here and there extorted from him that which amounts no less to the Dignity of Monarchy; he confesseth it to be the First, the Natural, and the Divinest Form of Government; and that the Gods themselves did live under a Monarchy. What can a Heathen say more?

4. Indeed, the World for a long time knew no other sort of Government, but onely Monarchy. The Best Order, the Greatest Strength, the Most Stability and Easiest Government, are to be found all in Monarchy, and in no other Form of Government. The New Platforms of Commonweals, were first hatched in a corner of the World, amongst a few Cities of Greece, which have been imitated by very few other places. Those very Cities were first, for many years governed by Kings, until *Wantonness, Ambition or Faction*, made them attempt New kinds of Regiment; all which Mutations proved most

most bloody and miserable to the Authors of them; happy in nothing, but that they continued but a small time.

XI. A little to manifest the Imperfection of Popular Government, let us but examine the most Flourishing Democratic that the World hath ever known; I mean that of *Rome*. First, for the *Durability*; at the most, it lasted but 480 Years (for so long it was from the Expulsion of *Tarquin*, to *Julius Caesar*.) Whereas both the *Assyrian* Monarchy lasted, without interruption, at the least twelve hundred years, and the Empire of the *East* continued 1495 Years.

2. For the Order of it; during these 480 years, there was not any One settled Form of Government in *Rome*: for after they had once lost the Natural Power of Kings, they could not find upon what Form of Government to rest: their Fickleness is an evidence that they found things amiss in every Change. At the first they chose two *Annual Consuls* instead of Kings. Secondly, Those did not please them long,

long, but they must have *Tribunes* of the People to defend their Liberty. Thirdly, They leave *Tribunes* and *Consuls*, and chule them *Ten Men* to make them Laws. Fourthly, They call for *Consuls* and *Tribunes* again: sometimes they choose *Dictators*, which were Temporary Kings, and sometimes *Military Tribunes*, who had *Consular Power*. All these shiftings caused such notable Alteration in the Government, as it passeth both Historians and Politicians to find out any Perfect Form of Regiment in so much Confusion: One while the Senate made Laws, another while the People. The Dissensions which were daily between the Nobles and the Commons, bred those memorable Seditions about *Usury*, about *Marriages*, and about *Magistracy*. Also the *Gracchian*, the *Appuleian*, and the *Drusian* Seditions, filled the Market-places, the Temples, and the Capitol it self, with Bloud of the Citizens; the *Social War* was plainly Civil; the Wars of the Slaves, and the other of the Fencers; the Civil Wars of *Marius* and *Sylla*, of *Catiline*, of *Cesar* and *Pompey* the *Triumvirate* of *Augustus*,
Lepidus

Lepidus and *Antony*: All these shed an Ocean of Blood within *Italy* and the Streets of *Rome*.

3. Thirdly, For their Government; let it be allowed, that for some part of this time it was *Popular*, yet it was *Popular* as to the City of *Rome* only, and not as to the Dominions, or whole Empire of *Rome*; for no *Democratie* can extend further than to one City: It is impossible to Govern a Kingdom, much less many Kingdoms by the whole People, or by the Greatest Part of them.

XII. But you will say, yet the *Roman* Empire grew all up under this kind of *Popular* Government, and the City became Mistress of the World. It is not so; for *Rome* began her Empire under *Kings*, and did perfect it under Emperours; it did onely encrease under that Popularity: Her greatest Exaltation was under *Trajan*, as her longest Peace had been under *Augustus*. Even at those times, when the *Roman* Victories abroad, did amaze the World, then the Tragical Slaughter of Citizens at home, deserved Com-
mise-

See Bodin
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L. 6. c. 4.

miseration from their vanquished Enemies. What though in that Age of her Popularity, she bred many admired Captains and Commanders (each of which was able to lead an Army, though many of them were but ill requited by the People?) yet all of them were not able to support her in times of Danger; but she was forced in her greatest Troubles to create a *Dictator* (who was a King for a time) thereby giving this Honourable Testimony of *Monarchy*, that the last Refuge in Perils of States, is to fly to *Regal Authority*. And though *Romes* Popular Estate for a while was miraculously upheld in Glory by a greater Providence than her own; yet in a short time, after manifold Alterations, she was ruined by her Own Hands. *Suis & ipsa Roma viribus ruit*: For the Arms she had prepared to conquer other Nations, were turned upon her Self, and Civil Contentions at last settled the Government again into a Monarchy.

XIII. The Vulgar Opinion is, that the first Cause why the *Democratical* Government was brought in, was

was to curb the Tyranny of Monarchs. But the Fallhood of this doth best appear by the first Flourishing Popular Estate of *Athens*, which was founded, not because of the Vices of their last King, but for that his Vertuous Deserts were such as the people thought no Man Worthy enough to succeed him; a pretty wanton Quarrel to Monarchy. For when their King *Codrus* understood by the Oracle, that his Country could not be saved, unless the King we slain in the Battle. He in Disguise entered his Enemies Camp, and provoked a Common Soldier to make him a Sacrifice for his own Kingdom, and with his Death ended the Royal Government; for after him was never any more Kings of *Athens*. As *Athens* thus for Love of her *Codrus*, changed the Government, so *Rome* on the contrary, out of Hatred to her *Tarquin* did the like. And though these two famous Commonwealths did for contrary causes abolish Monarchy, yet they both agreed in this, that neither of them thought it fit to change their State into a Democratic: but the one chose *Archontes*, and the

the other *Consuls* to be their Governours; both which did most resemble Kings, and continued, until the People by lessening the Authority of these their Magistrates, did by degrees and stealth bring in their Popular Government. And I verily believe, never any Democratical State shewed it self at first fairly to the World by any Elective Entrance, but they all secretly crept in by the Back-door of Sedition and Faction.

Bodin l. 6.
c. 4.

XIV. If we will listen to the Judgment of those who should best know the Nature of Popular Government, we shall find no reason for good Men to desire or choose it. *Xenophon* that brave Scholar and Souldier, disallow'd the *Athenian* Commonweal, for that they followed that Form of Government wherein the Wicked are always in greatest Credit, and Vertuous Men kept under. They expelled *Aristides* the Just; *Themistocles* died in Banishment; *Miltiades* in Prison; *Phocion* the most Vertuous and just Man of his Age, though he had been chosen forty five times to be their General, yet he

he was put to Death with all his Friends, Kindred and Servants, by the Fury of the People, without Sentence, Accusation, or any Cause at all. Nor were the People of *Rome* much more favourable to their Worthies; they banished *Rutilius*, *Metellus*, *Coriolanus*, the Two *Scipio's* and *Tully*: the worst Men sped best; for as *Xenophon* saith of *Athens*, so *Rome* was a Sanctuary for all Turbulent, Discontented and Seditious Spirits. The Impunity of Wicked Men was such, that upon pain of Death, it was forbidden all Magistrates to condemn to Death, or Banish any Citizen, or to deprive him of his Liberty, or so much as to whip him for what Offence soever he had committed; either against the Gods or Men.

2. The *Athenians* sold Justice as they did other Merchandise; which made *Plato* call a Popular Estate a *Fair*, where every thing is to be sold. The Officers when they entered upon their Charge, would brag, they went to a *Golden Harvest*. The Corruption of *Rome* was such, that *Marius* and *Pompey*

they durst carry Bushels of Silver into the Assemblies, to purchase the Voices of the People. Many Citizens under their Grave Gowns, came Armed into the Publick Meetings, as if they went to War. Often contrary Factions fell to Blows, sometimes with Stones, and sometimes with Swords; the Bloud hath been suck'd up in the Market-places with Spunges; the River *Tiber* hath been filled with the Dead Bodies of the Citizens, and the common Privies stuffed full with them.

3. If any Man think these Disorders in Popular States were but Casual, or such as might happen under any kind of Government, we must know, that such Mischiefs are Unavoidable, and of necessity do follow all *Democrati- cal* Regiments; and the Reason is given, because the Nature of all People is, to desire Liberty without Restraint, which cannot be but where the Wicked bear Rule; and if the People should be so indiscreet, as to advance Vertuous Men, they lose their Power: For that Good Men would favour none but the Good, which are always the fewer

fewer in Number; and the Wicked and Vitious (which is still the greatest Part of the People) should be excluded from all Preferment, and in the End, by little and little, Wise Men should seize upon the State, and take it from the People.

4. I know not how to give a better Character of the People, than can be gathered from such Authors as lived Amongst or Near to Popular States; *Thucydides, Xenophon, Livie, Tacitus, Cicero, and Salust*, have set them out in their Colours. I will borrow some of their Sentences :

5. " There is nothing more uncertain
 " than the People; their Opinions are
 " as variable and suddain as Tempests;
 " there is neither Truth nor Judgment
 " in them; they are not led by Wisdom
 " to judg of any thing, but by Vio-
 " lence and Rashness; nor put they
 " any Difference between things True
 " and False. After the manner of Cat-
 " tel, they follow the Herd that goes
 " before; with envious Eyes they be-
 " hold the felicity of others : they
 F " have

"have a Custom always to favour the
 "Worst and Weakest; they are most
 "prone to Suspensions, and use to Con-
 "demn Men for Guilty upon every
 "false Suggestion; they are apt to be-
 "lieve all News, especially if it be for-
 "rowful; and like Fame, they make
 "it more in the Believing; when there
 "is no Author, they fear those Evils
 "which themselves have feigned; they
 "are most desirous of New Stirs and
 "Changes, and are Enemies to Quiet
 "and Rest; whatsoever is Giddy or
 "Head-strong, they account Manlike
 "and Courageous; but whatsoever is
 "Modest or provident, seems sluggish;
 "each Man hath a Care of his Parti-
 "cular, and thinks basely of the Com-
 "mon Good; they look upon Ap-
 "proaching Mischiefs as they do upon
 "Thunder, onely every Man wisheth
 "it may not touch his own Person;
 "it is the Nature of them, they must
 "Serve basely, or Domineer proudly;
 "for they know no Mean. Thus do
 their own Friends paint to the Life
 this Beast of many Heads. Let me give
 you the Cypher of their Form of Go-
 vernment; As it is begot by Sedition,
 so

so it is nourished by Arms: It can never stand without Wars, either with an Enemy abroad, or with Friends at Home. The onely Means, to preserve it, is, to have some powerful Enemies near, who may serve instead of a King to Govern it, that so, though they have not a King amongst them, yet they may have as good as a King Over them: For the Common Danger of an Enemy keeps them in better Unity, than the Laws they make themselves.

XV. Many have exercised their Wits in paralleling the Inconveniences of Regal and Popular Government, but if we will trust Experience before Philosophical Speculations, it cannot be denied but this one Mischief of Sedition which necessarily waits upon all Popularity, weighs down all the Inconveniences that can be found in Monarchy, though they were never so many. It is said, Skin for Skin, yea, all that a Man hath Job ii. 4. will he give for his Life; and a Man will give his Riches for the ransom of his Prov. xlii. Life. The way then to examine what Proportion the mischiefs of Sedition and Tyranny have one to another, is to
F 2 enquire

enquire in what kind of Government most Subjects have lost their Lives: Let *Rome* which is magnified for her Popularity, and vilified for those Tyrannical Monsters the Emperours, furnish us with with Examples. Consider whether the Cruelty of all the Tyrannical Emperours that ever ruled in this City did ever spill a quarter of the Blood that was poured out in the last hundred years of her glorious Commonwealth. The Murthers by *Tiberius*, *Caligula*, *Nero*, *Domitian*, and *Commodus*, put all together, cannot match that Civil Tragedy which was acted in that one Sedition between *Marius* and *Sylla*, nay, even by *Sylla's* part alone (not to mention the Acts of *Marius*) were fourscore and ten Senators put to death, xiv. Consuls, two thousand and six hundred Gentlemen, and a hundred thousand others.

2. This was the Heighth of the *Roman* Liberty: Any Man might be killed that would. A favour not fit to be granted under a Royal Government. The Miseries of those Licentious Times are briefly touched by *Plutarch* in these Words. *Sylla* (saith he) fell to shedding
of

of Bloud, and filled all *Rome* with infinite and unspeakable Murthers — This was not onely done in *Rome*, but in all the Cities of *Italy* throughout, there was no Temple of any God whatsoever, no Altar in any bodies House, no Liberty of Hospital, no Fathers House, which was not embrewed with Bloud, and horrible Murthers, the Husbands were slain in the Wives Arms, and the Children in the Mothers Laps; and yet they that were slain for private Malice were nothing in respect of those that were Murthered only for their Goods. For he openly sold their Goods by the Cryer, sitting so proudly in the Chair of State, that it grieved the People more to see their goods pack'd up by them to whom he gave, or disposed them, than to see them taken away. Sometimes he would give a whole Country, or the whole Revenues of certain Cities, unto Women for their Beauties, or to pleasant Jesters, Minstrels, or Wicked Slaves, made free. And to some he would give other mens Wives by force, and make them be married against their wills. Now let *Tacitus* and *Suetonius* be searched, and see if all their Cruel Em-

perours can match this Popular Villany, in such an Universal Slaughter of Citizens, or Civil Butchery: no God onely was able to match him, and over-matched him, by fitting him with a most remarkable Death, just answerable to his Life, for as he had been the Death of many thousands of his Country-men, so as many thousands of his own Kindred in the flesh were the Death of him, for he died of an Impostume, which corrupted his Flesh in such sort, that it turned all to Lice, he had many about him to Shift him continually Night and Day; yet the Lice they wiped from him, were nothing to them that multiplied upon him, there was neither Apparel, Linnen, Bathes, Washings, nor meat it self, but was presently filled with Swarms of this vile Vermin. I cite not this to extenuate the Bloudy Acts of any Tyrannical Princes, nor will I plead in Defence of their Cruelties: Onely in the Comparative, I maintain the Mischiefs to a State to be less Universal under a Tyrant King; for the Cruelty of such Tyrants extends ordinarily no further than to some particular Men that offend him, and not to the whole Kingdom: It is truly

truly said by his late Majesty King James, a King can never be so notoriously Vicious, but he will generally favour Justice, and maintain some Order; except in the particulars wherein his inordinate Lust carries him away. Even cruel *Domitian*, *Dionysius* the Tyrant, and many others, are commended by Historians for great Observers of Justice: A natural Reason is to be rendered for it: It is the Multitude of People, and the abundance of their Riches, which are the onely Strength and Glory of every Prince: The Bodies of his Subjects do him Service in War, and their Goods supply his Publick wants, therefore if not out of Affection to his people, yet out of Natural Love to Himself, every Tyrant desires to preserve the Lives, and protect the Goods of his Subjects, which cannot be done but by Justice, and if it be not done, the Princes Loss is the greatest; on the contrary, in a Popular State, every man knows the publick good doth not depend wholly on his Care, but the Common-wealth may well enough be governed by others though he tend only his private Benefit, he never takes the Publick to be his

Own Business; thus as in a Family, where one Office is to be done by many Servants, one looks upon another, and every one leaves the Business for his Fellow, until it is quite neglected by all; nor are they much to be blamed for their Negligence, since it is an even Wager, their Ignorance is as great: For Magistrates among the People, being for the most part Annual, do always lay down their Office before they understand it; so that a Prince of a duller understanding, by Use and Experience must needs excell them; again, there is no Tyrant so barbarously Wicked, but his own reason and sense will tell him, that though he be a God, yet he must die like a Man; and that there is not the Meanest of his Subjects but may find a means to revenge himself of the Injustice that is offered him: Hence it is that great Tyrants live continually in base fears, as did *Dionysius* the Elder; *Tiberius*, *Caligula*, and *Nero* are noted by *Suetonius* to have been frighted with Panick fears. But it is not so, where wrong is done to any particular Person by a Multitude, he knows not who hurt him, or who to complain of.

or

or to whom to address himself for reparation. Any man may boldly exercise his Malice and Cruelty in all Popular Assemblies. There is no Tyranny to be compared to the Tyranny of a Multitude.

XVI. What though the Government of the People be a thing not to be endured, much less defended, yet many men please themselves with an Opinion, that though the People may not Govern; yet they may partake and joyn with a King in the Government, and so make a State mixed of Popular and Regal power, which they take to be the best tempered and equallest Form of Government. But the Vanity of this Fancy is too evident, it is a meer Impossibility or Contradiction, for if a King doth but once admit the People to be his Companions, he leaves to be a King, and the State becomes a Democracy; at least, he is but a Titular and no Real King, that hath not the Sovereignty ro Himself; for the having of this alone, and nothing but this makes a King to be a King. As for that Shew of Popularity which is found in such Kingdoms

as have General Assemblies for Consultation about making Publick Laws: It must be remembered that such Meetings do not Share or divide the Sovereignty with the Prince: but do only deliberate and advise their Supreme Head, who still reserves the Absolute power in himself; for if in such Assemblies, the King, the Nobility, and People have equal Shares in the Sovereignty, then the King hath but one Voice, the Nobility likewise one, and the People one, and then any two of these Voices should have Power to overrule the third; thus the Nobility and Commons together should have Power to make a Law to bind the King, which was never yet seen in any Kingdom, but if it could, the State must needs be Popular and not Regal.

XVII. If it be Unnatural for the Multitude to chuse their Governours, or to Govern, or to partake in the Government, what can be thought of that damnable Conclusion which is made by too many, that the Multitude may Correct, or Depose their Prince, if need be? Surely, the Unnaturalness, and Injustice of

of this Position cannot sufficiently be expressed: For admit that a King make a Contract or Paction with his people, either Originally in his Ancestors, or personally at his Coronation (for both these Pactions some dream of, but cannot offer any proof for either) yet by no Law of any Nation can a Contract be thought broken, except that first a Lawful Trial be had by the Ordinary Judge of the breakers thereof, or else every Man may be both Party and Judge in his own case, which is absurd once to be thought, for then it will lie in the hands of the headless Multitude when they please to cast off the Yoke of Government (that God hath laid upon them) to judge and punish him, by whom they should be judged and punished themselves: *Aristotle* can tell us, what Judges the Multitude are in their own case, οἱ πολλοὶ φαῦλοι χεῖρα περὶ τῶν δικαίων. *Polyb.* 1.3. c. 9. The Judgment of the Multitude in Disposing of the Sovereignty may be seen in the *Roman* History, where we may find many good Emperours Murdered by the People, and many bad Elected by them: *Nero*, *Heliogabalus*, *Otho*, *Vitellius*, and such other Monsters of

of Nature, were the Minions of the Multitude, and set up by them: *Pertinax, Alexander, Severus, Gordianus, Gallus, Emilianus, Quintilius, Aurelianus, Tacitus, Probus, and Numerianus*; all of them good Emperours in the Judgment of all Historians, yet murdered by the Multitude.

XVIII. Whereas many out of an imaginary Fear pretend the power of the people to be necessary for the repressing of the Insolencies of Tyrants; wherein they propound a Remedy far worse than the Disease, neither is the Disease indeed so frequent as they would have us think. Let us be judged by the History even of our own Nation: We have enjoyed a Succession of Kings from the Conquest now near about 690 years (a time far longer than ever yet any Popular State could continue) we reckon to the Number of twenty five of these Princes since the *Norman Race*, and yet not one of these is taxed by our Historians for Tyrannical Government. It is true, two of these Kings have been Deposed by the people, and barbarously murdered; but neither of them for Tyranny: For

as

as a learned Historian of our Age saith, *S. Jo. Hal-*
Edward the Second and *Richard* the Se- *wards*
 cond were not insupportable either in *Answer to*
 their Nature or Rule, and yet the people, *Dezman.*
 more upon Wantonness than for any
 Want, did take an unbridled Course a-
 gainst them. *Edward* the Second, by ma-
 ny of our Historians is reported to be of
 a Good and vertuous Nature, and not
 Unlearned: they impute his defects ra-
 ther to Fortune than either to Council
 or Carriage of his Affairs, the Deposi-
 tion of him was a violent Fury, led by
 a Wife both Cruel and unchast, and can
 with no better Countenance of Right be
 justified, than may his lamentable both
 Indignities and Death it self. Likewise
 the Deposition of King *Richard* II. was
 a tempestuous Rage, neither Led or
 Restrained by any Rules of Reason or
 of State ——— Examin his Actions with-
 out a distempered Judgment, and you
 will not Condemn him to be exceeding
 either Insufficient or Evil; weigh the
 Imputations that were objected against
 him, and you shall find nothing either
 of any Truth or of great moment;
Hollingshed writeth, That he was most
 Unthankfully used by his Subjects: for
 al-

although, through the frailty of his Youth, he demeaned himself more dissolutely than was agreeable to the Royalty of his Estate, yet in no Kings Days were the Commons in greater Wealth, the Nobility more honoured, and the Clergy less wronged; who notwithstanding, in the Evil-guided Strength of their will, took head against him, to their own headlong destruction afterwards; partly during the Reign of *Henry*, his next Successor, whose greatest Achievements were against his own People, in Executing those who Conspired with him against King *Richard*: But more especially in succeeding times, when, upon occasion of this Disorder, more *English* Blood was spilt, than was in all the forein Wars together, which had been since the Conquest.

2. Twice hath this Kingdom been miserably wasted with Civil War, but neither of them occasioned by the Tyranny of any Prince. The Cause of the Barons's Wars is by good Historians attributed to the stubbornness of the Nobility, as the Bloudy Variance of the Houses of *Tork* and *Lancaster*, and the late

late Rebellion, sprung from the Wantonness of the People. These two Unnatural Wars have dishonoured our Nation amongst Strangers, so that in the Censures of Kingdoms, the King of *Spain* is said to be the King of Men, because of his Subjects willing Obedience; the King of *France* King of Asses, because of their infinite Taxes and Impositions; but the King of *England* is said to be the King of Devils, because of his Subjects often Insurrections against, and Depositions of their Princes.

CHAP. III.

*Positive Laws do not infringe
the Natural and Fatherly
Power of Kings.*

(1) **R**egal Authority not subject to the Positive Laws. Kings before Laws; the King of Judah and Israel not tied to Laws. (2) Of Samuel's Description of a King, 1 Sam. 8. (3) The Power ascribed unto Kings in the New Testament.

Testament. (4) *Whether Laws were invented to bridle Tyrants.* (5) *The Benefit of Laws.* (6) *Kings keep the Laws, though not bound by the Laws.* (7) *Of the Oaths of Kings.* (8) *Of the Benefit of the King's Prerogative over Laws.* (9) *The King the Author, the Interpreter, and Corrector of the Common Laws.* (10) *The King, Judge in all Causes both before the Conquest and since.* (11) *The King and his Council have anciently determined Causes in the Star-Chamber.* (12) *Of Parliaments.* (13) *When the People were first called to Parliament.* (14) *The Liberty of Parliaments, not from Nature, but from Grace of the Princes.* (15) *The King alone makes Laws in Parliament.* (16) *Governs both Houses as Head by himself.* (17) *By his Council.* (18) *By his Judges.*

I. **H**itherto I have endeavour'd to shew the Natural Institution of Regal Authority, and to free it from Subjection to an Arbitrary Election of the People. It is necessary also to enquire whether Humane Laws have a Superiority

rity over Princes; because those that maintain the Acquisition of Royal Jurisdiction from the people, do subject the Exercise of it to *humanè* Positive Laws. But in this also they Err, for as Kingly Power is by the Law of God, so it hath no inferiour Law to limit it.

2. The Father of a Family Governs by no other Law than by his own Will; not by the Laws and Wills of his Sons or Servants. There is no Nation that allows Children any Action or Remedy for being unjustly Governed; and yet for all this every Father is bound by the Law of Nature to do his best for the preservation of his Family; but much more is a King always tyed by the same Law of Nature to keep this general ground, That the safety of the Kingdom be his Chief Law: He must remember, That the profit of every man in particular, and of all together in general, is not always One and the same; and that the Publick is to be preferred before the Private; And that the force of Laws must not be so great as natural Equity it self, which cannot fully be comprised in any Laws whatsoever, but is to be left to the Religious

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ligious Arbitrement of those who know how to manage the Affairs of State, and wisely to Ballance the particular profit, with the Counterpoize of the Publick, according to the infinite Variety of Times, Places, Persons. A proof unanswerable, for the Superiority of Princes above Laws, is this, That there were Kings long before there were any Laws: For a long time the Word of a King was the only Law; and if Practice (as saith Sir *Walter Raleigh*) declare the greatness of Authority, even the best Kings of *Judah* and *Israel* were not tyed to any Law; but they did whatsoever they pleased, in the greatest matters.

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II. The Unlimited Jurisdiction of Kings is so amply described by *Samuel*, that it hath given Occasion to some to Imagine, that it was, but either a Plot or Trick of *Samuel* to keep the Government himself and Family, by frightening the *Israelites* with the mischiefs in Monarchy, or else a Prophetical Description only of the future Ill Government of *Saul*: But the Vanity of these Conjectures are judiciously discovered in that Majestical Discourse of the true Law of free

free Monarchy; Wherein it is evidently shewed, that the scope of *Samuel* was to teach the People a dutiful Obedience to their King, even in those things which themselves did esteem Mischievous and Inconvenient; For by telling them what a King would do, he indeed instructs them what a Subject must Suffer; yet not so that it is Right for Kings to do Injury, but it is Right for them to go Unpunished by the People if they do it: So that in this point it is all one, whether *Samuel* describe a King, or a Tyrant; for Patient Obedience is due to both; no Remedy in the Text against Tyrants, but in Crying and praying unto God in that Day. But howsoever in a Rigorous Construction *Samuel's* description be applied to a Tyrant; yet the Words by a Benign Interpretation may agree with the manners of a Just King; and the Scope and Coherence of the Text doth best imply the more Moderate, or Qualified Sense of the Words; for as *Sir W. Raleigh* confesses, all those Inconveniences and Miseries which are reckoned by *Samuel* as belonging to Kingly Government were not Intolerable, but such as have been born, and are still

G 2 born,

born, by free Consent of Subjects towards their Princes; Nay at this day, and in this Land, many Tenants by their Tenures and Services are tied to the same Obedience, even to Subordinate and Inferiour Lords: To serve the King in his Wars, and to Till the Ground, is not only agreeable to the Nature of Subjects, but much desired by them; according to their severall Births, and Conditions: The like may be said for the Offices of Women Servants, Confectioners, Cooks, and Bakers, for we cannot think that the King would use their Labours without giving them Wages, since the Text it self mentions a Liberal reward of his Servants.

2. As for the taking of the Tenth of their seed, of their Vines, and of their Sheep, it might be a necessary Provision for their Kings Household, and so belong to the Right of Tribute: For whereas is mentioned the taking of the Tenth; it cannot agree well to a Tyrant, who observes no Proportion, in fleecing his People.

3. Last'y, The taking of their Fields, Vineyards,

Vineyards, and Olive-trees, if it be by Force or Fraud, or without just Recompence, to the Damage of Private Persons only, it is not to be defended; but if it be upon the publick Charge and General Consent, it might be justified, as necessary at the first Erection of a Kingdom; For those who will have a King, are bound to allow him Royal maintenance, by providing Revenues for the C R O W N. Since it is both for the Honour, Profit, and Safety too of the People to have their King Glorious, Powerful, and abounding in Riches: besides we all know the Lands and Goods of many Subjects may be oft-times Legally taken by the King, either by Forfeitures, Elcheat, Attainder, Outlawry, Confiscation, or the like. Thus we see *Samuel's* Character of a King may literally well bear a mild Sense: For greater probability *there is* that *Samuel* so meant, and the *Israelites* so understood it; *to which* this may be added, that *Samuel* tells the *Israelites*, this will be the manner of the King that shall Reign over you: And Ye shall cry because of your King which Ye shall have chosen you; that is to say: Thus

shall be the common Custom or Fashion, or proceeding of *Saul* your King ; Or as the Vulgar Latine renders it, this shall be the Right or Law of your King ; not meaning, as some expound it, the Casual Event, or Act of some *individuum vagum*, or indefinite King, that might happen one day to Tyrannize over them. So that *Saul*, and the Constant practice of *Saul*, doth best agree with the Literal Sense of the Text. Now that *Saul* was no Tyrant, we may note that the People asked a King, as all Nations had. God answers, and bids *Samuel* to hear the Voice of the People, in all things which they spake, and appoint them a King. They did not ask a Tyrant, and to give them a Tyrant, when they asked a King had not been to hear their Voice in all things, but rather when they asked an Egg, to have given them a Scorpion : Unless we will say, that all Nations had Tyrants. Besides, we do not find in all Scripture, that *Saul* was Punished, or so much as Blamed, for committing any of those Acts which *Samuel* describes : and if *Samuel*'s drift had been only to terrifie the People, he would not have forgotten to foretel *Saul*'s bloody Cruelty, in Murther-

Murthring Eighty five innocent Priests, 1 Sam. and smiting with the Edge of the Sword ^{xxii.} the City of *Nob*, both Man, Woman and Child. Again, the *Israelites* never shrank at these Conditions proposed by *Samuel*, but accepted of them, as such as all other Nations were bound unto. For their Conclusion is, *Nay, but we will have a King over Us, that We also may be like all the Nations, and that Our King may Judge us, and go out before us to fight our Battels.* Meaning he should earn his Priviledges, by doing the work for them, by Judging them, and Fighting for them. Lastly, Whereas the mention of the Peoples Crying unto the Lord, argues they should be under some Tyrannical Oppression; we may remember, that the Peoples Complaints and Cries are not always an Argument of their Living under a Tyrant. No man can say King *Solomon* was a Tyrant, yet all the Congregation of *Israel* complained that *Solomon* made their Yoke grievous, and therefore their Prayer to *Reboboam* is, *Make thou the grievous Service of thy Father Solomon, and his heavy Toke which he put upon us, lighter, and we will serve thee.* To conclude, it is

true, *Saul* lost his Kingdom, but not for being too Cruel or Tyrannical to his Subjects, but by being too Merciful to his Enemies; his sparing *Agag* when he should have slain him, was the Cause why the Kingdom was torn from him.

2. It was objected, that when *Saul* was made King, *Samuel* gave him a written Law by which he was to govern; so that *Saul* was subject to that Law. The Answer is, the Law which *Samuel* writ was to instruct the People in their Duty, not to teach the King his Office, for the Text saith, 1 *Sam.* 10. 25. that *Samuel* told the People the manner of the Kingdom. There is no speech of Reading to the King what *Samuel* had formerly told the People, when they desired a King, of the Manner of the King, and the things they must suffer. He now writes and leaves it upon Record to all Posterity, and laid it up before the Lord: Thus saith *Josephus*, lib. 6. cap. 5. *Antiq.* who should best know the Jewish Records.

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3. Those Err that think the Law in *Deut. xvii.* concerning the duty of a King was the same Law that *Samuel* writ, and laid up; if it had been the same, what need *Samuel* have writ and laid it up, since it was writ and laid up long before in the Ark, *Deut. xxxi.* Secondly, the Law in *Deuteronomy* concerned properly the King, and should have been read to him rather than the People. Thirdly, The Law it self, *Deut. xvii.* was but some few general Precepts which did properly concern the particular things of the Jews, as the not multiplying of Horses, or Wives, not returning into *Ægypt*; and though there be no question but that God may give Laws to all Kings, though the People may not, yet the Laws in *Deut. xvii.* were only Laws for the Kings of the particular Commonwealth of the Hebrews.

III. If any desire the direction of the New Testament, he may find our Saviour limiting and distinguishing Royal Power, *By giving to Cæsar those things that were Cæsar's, and to God those things that were God's.* Let St. Basil expound
this

this Text, *Obediendum est in quibus
mandatum Dei non impeditur.* We must
obey where the Commandment of
God is not hindred; there is no other
Law but Gods Law to hinder our Obe-
dience. It was the Answer of a Chri-
stian to the Emperour, *We only worship
God, in other things we gladly serve you.*
And it seems *Tertullian* thought what-
soever was not God's was the Emperours,
when he saith, *Bene opposuit Cæsari pecu-
niam, te ipsum Deo, alioqui quid erit Dei,
si omnia Cæsaris.* Our Saviour hath
well apportioned our Money for *Cæsar*,
and our selves for God, for otherwise
what shall Gods share be, if all be *Cæ-
sar's*. The Fathers mention no Reserva-
tion of any Power to the Laws of the
Land, or to the People. *St. Ambrose*, in
his Apology for *David*, expressly saith,
He was a King, and therefore bound to
no Laws, because Kings are free from
the Bonds of any Fault. *St. Augustin* also
resolves, *Imperator non est subiectus Legi-
bus, qui habet in potestate alias Leges ferre.*
The Emperour is not subject to Laws,
who hath Power to make other Laws.
For indeed it is the Rule of *Solomon*, that
We must keep the King's Commandment,
and

and not say to him, *What dost thou?* because *Where the Word of a King is, there is Power,* and All that he pleaseth, he will do.

2. If any mislike this Divinity in *England*, let him but hearken to *Bracton*, Chief Justice in *Henry the Third's* days, which was since the Institution of *Parliaments*, his words are, speaking of the King, *Omnes sub Eo, & Ipse sub nullo, nisi tantum sub Deo, &c.* All are under him, and he under none, but God only: If he offend, since no Writ can go against him, their Remedy is by Petitioning him to amend his Fault, which if he shall not do, it will be Punishment sufficient for him to expect God as a Revenger: Let none presume to Search into his Deeds, much less to Oppose them.

3. When the *Jews* asked our Blessed Saviour, whether they should pay Tribute? He did not first demand what the Law of the Land was, or whether there was any Statute against it, nor required whether the Tribute were given by Act of Parliament, nor advised them to stay their payment till a Parliament should

should grant it; he did no more but look upon the Supercription, and concluded, *This Image you say is Cæsar's, therefore give it to Cæsar.* Nor must it here be said, that *Christ* taught this Lesson only to the conquered *Jews*, for in this he gave direction for all Nations who are bound as much in Obedience to their Lawful Kings, as to any *Conquerour* or *Usurper* whatsoever.

4. Whereas *St. Paul* bids us be *subject to the Higher Powers*, some have strained these words to signify the Laws of the Land, or else to mean the Highest Power, as well Aristocratical and Democratical as Regal: It seems *S. Paul* looked for such Interpreters, and therefore thought fit to be his own Expofitor, and to let it be known, that by *Power* he understood a Monarch that carried a Sword: *Wilt thou not be afraid of the Power?* That is, the Ruler that carrieth the Sword, for *he is the Minister of God to thee*—for *he beareth not the Sword in vain.* It is not the Law that is the Minister of God, or that carries the Sword, but the Ruler or Magistrate; so that they that say the Law governs the Kingdom, may as well say

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say that the Carpenters Rule builds an House, and not the Carpenter ; for the Law is but the Rule or Instrument of the Ruler. And St. Paul concludes ; *For this cause pay you tribute also, for they are Gods Ministers attending continually upon this very thing. Render therefore Tribute to whom Tribute is due, Custom to whom Custom.* He doth not say, give Tribute as a gift to Gods Minister. But ἀπόδοτε, Render or Restore Tribute, as a due. Also St. Peter doth most clearly expound this place of St. Paul, where he saith, *Submit your selves to every Ordinance of Man for the Lords sake, whether it be to the King as Supreme, or unto Governours, as unto them that are sent by him.* Here the very self-same Word (Supreme, or ἐντερχόμενος) which S. Paul coupleth with Power, St. Peter conjoyneth with the King, βασιλεῖ ὡς ἐντερχομεν, thereby to manifest that King and Power are both one. Also St. Peter expounds his own Words of humane Ordinance, to be the King, who is *Lex Loquens*, a Speaking Law ; he cannot mean that Kings themselves are an humane Ordinance, since St. Paul calls the Supreme Power, The Ordinance of God ; and the

the Wisdom of God saith, *By me Kings Reign*: But his meaning must be, that the Commands or Laws of Kings are Humane Ordinances. Next, the *Governours that are sent by him*; that is by the King, not by God as some corruptly would wrest the Text, to justifie Popular Governours as authorized by God, whereas in Grammatical Construction [Him] the Relative must be referred to the next Antecedent, which is King; Besides, the Antithesis between Supreme and Sent, proves plainly that the Governours were sent by Kings; for if the Governours were sent by God, and the King be an Humane Ordinance, then it follows, that the Governours were Supreme, and not the King; Or if it be said, that both King and Governours are sent by God, then they are both equal, and so neither of them Supreme. Therefore St. Peter's meaning is in short, Obey the Laws of the King, or of his Ministers. By which it is evident, that neither St. Peter, nor St. Paul, intended other Form of Government than only Monarchical, much less any Subjection of Princes to Humane Laws.

That

5. That familiar distinction of the Schoolmen, whereby they subject Kings to the Directive, but not to the Coactive Power of Laws, is a Confession that Kings are not bound by the Positive Laws of any Nation: Since the Compulsory Power of Laws is that which properly makes Laws to be Laws; by binding men by Rewards or Punishments to Obedience; whereas the Direction of the Law, is but like the advice and direction which the Kings Council gives the King, which no man says is a Law to the King.

IV. There want not those who Believe that the first invention of Laws was to Bridle and moderate the over-great Power of Kings; but the truth is, the Original of Laws was for the keeping of the Multitude in Order: Popular Estates could not Subsist at all without Laws; whereas Kingdoms were Governed many Ages without them. The People of *Athens*, as soon as they gave over Kings, were forced to give Power to *Draco* first, then to *Solon*, to make them Laws, not to bridle Kings, but themselves;

selves; and though many of their Laws were very Severe and Bloudy, yet for the Reverence they bare to their Law-makers they willingly submitted to them. Nor did the People give any Limited Power to *Solon*, but an Absolute Jurisdiction, at his pleasure to Abrogate and Confirm what he thought fit; the People never challenging any such Power to themselves: So the People of *Rome* gave to the *Ten Men*, who were to chuse and correct their Laws for the *Twelve Tables*, an Absolute Power, without any Appeal to the People.

V. The reason why Laws have been also made by Kings, was this, when Kings were either busied with Wars, or distracted with Publick Cares, so that every private man could not have access to their Persons, to learn their Wills and Pleasure; then of necessity were Laws invented, that so every particular Subject might find his *Prince's Pleasure* decyphered unto him in the Tables of his Laws, that so there might be no need to resort to the King; but either for the Interpretation or Mitigation of Ob-
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secure or Rigorous Laws, or else in new Cases, for a Supplement where the Law was Defective. By this means both King and People were, in many things eased: First, The King by giving Laws doth free himself of great and Intolerable Troubles, as *Moses* did himself by choosing *Elders*. Secondly, The people have the Law as a Familiar Admonisher and Interpreter of the King's pleasure, which being published throughout the Kingdom, doth represent the Presence and Majesty of the King: Also the Judges and Magistrates, (whose help in giving Judgment in many Causes Kings have need to use) are restrained by the Common Rules of the Law from using their own Liberty to the injury of others, since they are to judg according to the Laws, and not follow their own Opinions.

Exod.
xviii.

VI. Now albeit Kings, who make the Laws, be (as King *James* teacheth us) above the Laws; yet will they Rule their Subjects by the Law; and a King, governing in a settled Kingdom, leaves to be a King, and degenerates into a Tyrant, so soon as he leaves to Rule according to

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his Laws ; yet where he sees the Laws Rigorous or Doubtful, he may mitigate and interpret. General Laws made in Parliament, may, upon known Respects to the King, by his Authority be Mitigated, or Suspended upon Causes only known to him. And although a King do frame all his Actions to be according to the Laws, yet he is not bound thereto, but at his good Will, and for good Example : Or so far forth as the General Law of the Safety of the Commonwealth doth naturally bind him ; for in such sort only Positive Laws may be said to bind the King, not by being Positive, but as they are naturally the Best or Only Means for the Preservation of the Commonwealth. By this means are all Kings, even Tyrants and Conquerours, bound to preserve the Lands, Goods, Liberties, and Lives of all their Subjects, not by any Municipal Law of the Land, but by the Natural Law of a Father, which binds them to ratifie the Acts of their Forefathers and Predecessors, in things necessary for the Publick Good of their Subjects.

VII. Others

VII. Others there be that affirm, That although Laws of themselves do not bind Kings, yet the Oaths of Kings at their Coronations tye them to keep all the Laws of their Kingdoms. How far this is is true, let us but examine the Oath of the Kings of *England* at their Coronation; the words whereof are these, *Art thou pleased to cause to be administred in all thy Judgments indifferent and upright Justice, and to use Discretion with Mercy and Verity? Art thou pleased that our upright Laws and Customs be observed, and dost thou promise that those shall be protected and maintained by thee?* These two are the Articles of the King's Oath, which concern the Laity or Subjects in General; to which the King answers affirmatively. Being first demanded by the Archbishop of Canterbury, *Pleaseth it you to confirm and observe the Laws and Customs of Ancient Times, granted from God, by just and devout Kings, unto the English Nation, by Oath unto the said People. Especially the Laws, Liberties, and Customs granted unto the Clergy and Laity by the famous King Edward.* We may observe, in these words of the Articles

Mills of Nobility.

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of the Oath, that the King is required to observe not all the Laws, but only the Upright, and that with Discretion and Mercy. The Word Upright cannot mean all Laws, because in the Oath of *Richard* the Second, I find Evil and Unjust Laws mentioned, which the King swears to abolish; and in the *Old Abridgment of Statutes*, set forth in *Henry* the Eighth's days, the King is to swear wholly to put out Evil Laws; which he cannot do, if he be bound to all Laws. Now what Laws are Upright and what Evil, who shall judge but the King, since he swears to administer Upright Justice with Discretion and Mercy (or as *Bracton* hath it) *æquitatem præcipiat, & misericordiam*. So that in effect, the King doth swear to keep no Laws, but such as in *His Judgment* are Upright, and those not literally always, but according to the Equity of his Conscience, joyned with Mercy, which is properly the Office of a Chancellour rather than of a Judge; and if a King did strictly swear to observe all the Laws, he could not without Perjury give his Consent to the Repealing or Abrogating of any Statute by Act of Parliament, which would

would be very mischievable to the State.

2. But let it be supposed for truth, that Kings do swear to observe all the Laws of their Kingdoms, yet no man can think it reason that Kings should be more bound by their Voluntary Oaths than Common Persons are by theirs. Now if a private person make a Contract, either with Oath or without Oath, he is no further bound than the Equity and Justice of the Contract ties him; for a man may have Relief against an unreasonable and unjust promise, if either Deceit, or Errour, or Force, or Fear induced him thereunto: Or if it be hurtful or grievous in the performance. Since the Laws in many Cases give the King a Prerogative above Common Persons, I see no Reason why he should be denied the Priviledge which the meanest of his Subjects doth enjoy.

3. Here is a fit place to examine a Question which some have moved, Whether it be a sin for a Subject to disobey the King, if he Command any thing contrary to his Laws? for satisfaction in this

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point, we must resolve, that not only in Humane Laws, but even in Divine, a thing may be commanded contrary to Law, and yet Obedience to such a Command is necessary. The sanctifying of the Sabbath is a Divine Law; yet if a Master Command his Servant not to go to Church upon a Sabbath day, the Best Divines teach us, that the Servant must obey this Command, though it may be Sinful and Unlawful in the Master; because the Servant hath no Authority or Liberty to Examine and Judge whether his Master Sin or no in so Commanding; for there may be a just Cause for a Master to keep his Servant from Church, as appears *Luke 14.5.* yet it is not fit to tye the Master to acquaint his Servant with his Secret Counsels, or present Necessity: And in such Cases, the Servant's not going to Church, becomes the Sin of the Master, and not of the Servant. The like may be said of the King's Commanding a man to serve him in the Wars, he may not examine whether the War be Just or unjust, but must Obey, since he hath no Commission to Judge of the Titles of Kingdoms, or Causes of War; nor hath any Subject

Power

Power to Condemn his King for breach of his own Laws.

VIII. Many will be ready to say, It is a Slavish and Dangerous Condition to be subject to the Will of any One Man, who is not subject to the Laws. But such men consider not, 1. That the Prerogative of a King is to be above all Laws, for the good only of them that are under the Laws, and to defend the Peoples Liberties, as His Majesty graciously affirmed in His *Speech* after His last Answer to the *Petition of Right*: Howsoever some are afraid of the Name of *Prerogative*, yet they may assure themselves, the Case of Subjects would be desperately miserable without it. The Court of *Chancery* it self is but a Branch of the Kings Prerogative, to Relieve men against the inexorable rigour of the Law, which without it is no better than a Tyrant, since *Summum Jus*, is *Summa Injuria*. General Pardons, at the Coronation and in Parliaments, are but the Bounty of the Prerogative. 2. There can be no Laws without a Supreme Power to command or make them. In all *Aristocracies* the Nobles are above the Laws, and in all *Democracies*

cracies the People. By the like Reason, in a Monarchy the King must of necessity be above the Laws; there can be no Sovereign Majesty in him that is under them; that which giveth the very Being to a King is the Power to give Laws; without this Power He is but an Equivocal King. It skills not which way Kings come by their Power, whether by *Election, Donation, Succession*, or by any other means; for it is still the manner of the Government by Supreme Power that makes them properly Kings, and not the means of obtaining their Crowns. Neither doth the Diversity of Laws, nor contrary Customs, whereby each Kingdom differs from another, make the Forms of Commonweal different, unless the Power of making Laws be in several Subjects.

*Polit. l. 3.
c. 19.*

For the Confirmation of this point, *Aristotle* saith, That a perfect Kingdom is that wherein the King rules all things according to his Own Will, for he that is called a King according to the Law, makes no kind of Kingdom at all. This is seems also the *Romans* well understood to be most necessary in a Monarchy; for
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though they were a People most greedy of Liberty, yet the Senate did free *Augustus* from all Necessity of Laws, that he might be free of his own Authority, and of absolute Power over himself and over the Laws, to do what he pleased, and leave undone what he list, and this Decree was made while *Augustus* was yet absent. Accordingly we find, that *Ulpian* the great Lawyer delivers it for a Rule of the Civil Law; *Princeps, Legibus solutus est.* The Prince is not bound by the Laws.

IX. If the Nature of Laws be advisedly weighed, the necessity of the Princes being above them may more manifest itself; we all know that a Law in General is the command of a Superiour Power. Laws are divided (as *Bellarmino* divides the Word of God) into written and unwritten, the Common Law is called unwritten, not for that it is not Written at all, but because it was not written by the first Devisers or Makers of it. The Common Law (as the Lord Chancellour *Egerton* teacheth us) is the Common Custom of the Realm. Now concerning Customs, this must be considered, that for every Custom there was a time when it was not Custom

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Custom ; and the first President we now have, had no President when it began ; when every Custom began, there was something else than Custom that made it lawful, or else the beginning of all Customs were unlawful. Customs at first became Lawful only by some Superiour Power, which did either Command or Consent unto their beginning. And the first Power which we find (as it is confessed by all men) is the Kingly Power, which was both in this and in all other Nations of the World, long before any Laws, or any other kind of Government was thought of ; from whence we must necessarily infer, that the Common Law it self, or Common Customs of this Land, were Originally the Laws and Commands of Kings at first unwritten.

2. Nor must we think the Common Customs (which are the Principles of the Common Law, and are but few) to be such, or so many, as are able to give special Rules to determine every particular Cause. Diversity of Cases are infinite, and impossible to be regulated by any Law ; and therefore we find, even in the Divine Laws which were delivered by

by *Moses*, there be only certain Principal Laws, which did not determine but only direct the High Priest or Magistrate, whose Judgment in special Cases did determine, what the General Law intended. It is so with the Common Law, for when there is no perfect Rule, Judges do resort to those Principles, or Common Law Axiomes, whereupon former Judgments, in Cases somewhat like, have been delivered by former Judges, who all receive Authority from the King, in his Right and Name to give Sentence according to the Rules and Presidents of Ancient Times: And where Presidents have failed, the Judges have resorted to the General Law of Reason, and accordingly given Judgment, without any Common Law to direct them. Nay, many times, where there have been Presidents to direct, they, upon better Reason only, have Changed the Law, both in Causes Criminal and Civil, and have not insisted so much on the Examples of former Judges, as examined and corrected their Reasons; thence it is that some Laws are now obsolete and out of use, and the Practice quite contrary to what it was

was in Former Times, as the Lord Chancellour *Egerton* proves, by several Instances,

3. Nor is this spoken to Derogate from the Common Law, for the Case standeth so with the Laws of all Nations, although some of them have their Laws and Principles Written and Established: for witness to this, we have *Aristotle* his Testimony in his *Ethicks*, and in several places in his *Politicks*; I will cite some of them. *Every Law* (saith he) *is in the General, but of some things there can be no General Law*—when therefore the Law speaks in General, and something falls out after besides the General Rule: Then it is fit that what the Law-maker hath omitted, or where he hath Erred by speaking Generally, it should be corrected or supplied, as if the Law-maker himself were Present to Ordain it. The Governour, whether he be one Man, or more, ought to be Lord over all those things whereof it was impossible the Law should exactly speak, because it is not easie to comprehend all things under General Rules—whatsoever the Law cannot Determine, it leaves to the Governours to give Judgment therein, and permits

Ω 7 v6.
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Eth. lib. 5.
c. 14.

mits them to rectifie whatsoever upon Trial they find to be better than the Written Laws.

4. And the Civil Law agrees with Aristotle, for it saith, *Jura constitui oportet in his (ut Dixit Theophrastus) quæ ἐπι τὸ πλεῖστον accidunt*, non quæ ἔκ τινος λόγου, they are the words of Pomponius. Again, *Ex his quæ forte uno aliquo casu accidere possunt jura non constituuntur*, nam ad ea potius debet aptari jus quæ & frequenter & facile quam quæ perraro eveniunt, saith Celsus. *Quæ semel aut bis accidunt præteriunt Legislatores, neque Leges ita scribi possunt ut omnes casus qui quandoque inciderint comprehendantur; sed sufficit & ea quæ plerumque accidunt contineri*, saith Julianus. *Cum in Aliqua causa sententia eorum est manifesta, is qui jurisdictioni præest ad similia procedere, atque ita jus dicere debet.*

5. Besides, all Laws are of themselves Dumb, and some or other must be trusted with the Application of them to Particulars, who by examining all Circumstances, are to pronounce when they are broken, or by whom. This work of right Application

plication of Laws is not a thing easie or obvious for ordinary capacities; but requires profound Abilities of Nature, for the beating out of the truth, witness the Diversity, and sometimes the Contrariety of Opinions of the learned Judges, in some difficult Points.

X. Since this is the common Condition of Laws, it is also most reasonable that the Law-maker should be trusted with the Application or Interpretation of the Laws: and for this Cause anciently the Kings of this Land have sitten personnally in Courts of Judicature, and are still Representatively present in all Courts; the Judges are but substituted, and called the Kings Justices, and their Power ceaseth when the King is in place. To this purpose, *Bracton*, that learned Chief Justice in the Reign of *Henry the Third*, saith in express terms; In doubtful and obscure points the Interpretation and Will of our Lord the King is to be expected; since it is his part to interpret, who made the Law; for as he saith in another place, *Rex, & non Alius debet Judicare, si Solus ad id sufficere possit, &c. The King,*
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and no body else, ought to give Judgment, if He were able, since by vertue of his Oath he is bound to it ; therefore the King ought to exercise Power as the Vicar or Minister of God, but if our Lord the King be not able to determine every cause, to ease part of his Pains by distributing the Burthen to more Persons, he ought to chuse Wise men fearing God, &c. and make Justices of them : Much to the same purpose are the words of King Edward the First, in the beginning of the Book of Laws, written by his appointment by John Briton, Bishop of Hereford. We will (saith the King) that Our Own Jurisdiction be above all the Jurisdctions of Our Realm, so as in all manner of Felonies, Trespasses, Contracts, and in all other Actions, Personal, or Real, We have power to yield such Judgments as do appertain without other Proceß, where-forever we know the right truth as Judges. Neither may this betaken to be meant of an imaginary Presence of the King's Person in his Courts, because he doth immediately after in the same place severally set forth by themselves the Jurisdctions of his Ordinary Courts ; but must necessarily be understood of a Jurisdiction remaining in the King's Royal Person.

Person. And that this then was no New-made Law, or first brought in by the Norman Conquests, appears by a Saxon Law made by King *Edgar*, in these words, as I find them in Mr. *Lambert* : *Nemo in lite Regem appellato, nisi quidem domi Justitiam consequi, aut impetrare non poterit, sin summo jure domi urgeatur, ad Regem, ut Onus aliqua ex parte Allevet, provocato.* Let no man in Suit appeal to the King, unless he may not get Right at home; but if the Right be too heavy for him, then let him go to the King to have it eased.

2. As the Judicial Power of Kings was exercised before the Conquest, so in those settled times after the Conquest, where in Parliaments were much in use, there was a High Court following the King, which was the place of Sovereign Justice, both for matter of Law and Conscience, as may appear by a Parliament in *Edward the First's* time, taking Order, *That the Chancellour and the Justices of the Bench should follow the King, to the end that He might have always at hand able men for His Direction in Suits that came before Him: And this was*
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after the time that the Court of *Common Pleas* was made Stationary; which is an Evidence that the King reserved a Sovereign Power, by which he did supply the Want, or correct the Rigour of the Common Law; because the *Positive Law*, being grounded upon that which happens for the most part, cannot foresee every particular which Time and Experience brings forth.

XII. Therefore though the Common Law be generally Good and Just, yet in some special Case it may need Correction, by reason of some considerable Circumstance falling out, which at the time of the Law-making was not thought of. Also sundry things do fall out, both in War and Peace, that require extraordinary help, and cannot wait for the Usual Care of Common Law, the which is not performed, but altogether after one sort, and that not without delay of help and expence of time; so that although most Causes are, and ought to be referred to the ordinary Process of Common Law, yet rare matters from time to time do grow up meet, for just Reasons, to be referred to the aid of the absolute and in-

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definite Authority of the Prince; and the Statute of *Magna Charta* hath and must be understood of the Institution then made of the ordinary Jurisdiction in *Common Causes*, and not for restraint of the Absolute Authority, which serves in rare and singular Cases; for though the Subjects were put to great damage by *False Accusations* and *Malitious Suggestions* made to the King and His Council, especially during the time of King *Edward the Third*, whilst he was absent in the Wars of *France*, insomuch as in His Reign divers Statutes were made, That provided none should be put to answer before the King and His Council without due Process; yet it is apparent the necessity of such proceedings was so great, that both before *Edward the Third's* days, and in his time, and after his Death, several Statutes were made, to help and order the proceedings of the King and his Council. As the Parliament in 28 *Ed. 1. Cap. 5.* did provide, *That the Chancellour and Justices of the King's Bench should follow the King; that so he might have near unto him some that be learned in the Laws, which be able to order all such matters as shall come unto the Court,*
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at all times when need shall require. By the Statute of 37 Edw. 3. Cap. 18. *Taliation* was ordained, in case the *Suggestion to the King* proved untrue. Then 38 Ed. 3. Cap. 9. takes away *Taliation*, and appoints Imprisonment till the King and Party grieved be satisfied. In the Statutes of 17 Ric. 2. Cap. 6. and 15 Hen. 6. Cap. 4. Damages and Expences are awarded in such Cases. In all these Statutes it is necessarily implied, that Complaints upon just Causes might be moved before the King and his Council.

2. At a Parliament at Gloucester, 2 Ric. 2. when the Commons made Petition, *That none might be forced by Writ out of Chancery, or by Privy Seal, to appear before the King and His Council, to answer touching Free-hold.* The King's Answer was, *He thought it not reasonable that He should be constrained not to send for his Lieges upon Causes reasonable: And albeit He did not purpose that such as were sent for should answer [Finalment] peremptorily touching their Free hold, but should be remanded for Tryal thereof, as Law required: Provided always, (saith he) that at the Suit of the Party, where the King and His*
I 2 Council

Council shall be credibly informed, that because of Maintenance, Oppression, or other Outrages, the Common Law cannot have duly her Course, in such case the Council may send for the Party.

3. Also in the 13th year of his Reign, when the Commons did pray, that upon pain of Forfeiture, the *Chancellour* or *Council* of the King, should not after the end of the *Parliament* make any Ordinance against the Common Law; the King answered, *Let it be used as it hath been used before this time, so as the Regality of the King be saved, for the King will save His Regalities as His Progenitors have done.*

4. Again, In the 4th year of *Henry* the Fourth, when the *Commons* complained against *Subpœna's* and other Writs, grounded upon false Suggestions; the King answered, *That He would give in Charge to His Officers, that they should abstain more than before time they had, to send for His Subjects in that manner. But yet (saith He) it is not our Intention, that Our Officers shall so abstain, that they may not send for our Subjects in Matters and Causes*

ses necessary, as it hath been used in the time of Our Good Progenitors.

5. Likewise when for the same Cause Complaint was made by the Commons, *Anno 3. Hen. 5.* the King's Answer was, *Le Roy s'avisera, The King will be advised*; which amounts to a Denial for the present, by a Phrase peculiar for the King's denying to pass any Bill that hath passed the Lords and Commons.

6. These Complaints of the Commons, and the Answers of the King, discover, That such moderation should be used, that the course of the Common Law be ordinarily maintained, *lest Subjects be convened before the King and His Council without just cause, that the Proceedings of the Council-Table be not upon every slight Suggestion, nor to determine finally concerning Free-hold of Inheritance.* And yet that upon cause reasonable, upon credible Information, in matters of weight, the King's Regality or Prerogative in sending for his Subjects be maintain'd, as of *Right* it ought, and in former times hath been constantly used.

These words are not in Sir Rob. Film. M. S.

A. 18.
Edw. 1.

7. King *Edward* the First, finding that *Bogo de Clare* was discharged of an Acculation brought against him in *Parliament*, for that some formal Imperfections were found in the *Complaint*, commanded him nevertheless to appear before *Him* and *His Couucil*, *ad faciendum*, & *recipiendum quod per Regem*, & *eius concilium fuerit faciendum*; and so proceeded to an *Examination* of the whole Cause.
18 Ed. 1.

8. King *Edward* the Third, In the *Star-Chamber* (which was the *Ancient Council-Chamber* at *Westminster*) upon the *Complaint* of *Elizabeth Audley*, commanded *James Audley* to appear before *Him* and *His Council*, and determin'd a *Controversie* between them, touching Lands contain'd in the *Covenants* of her *Joynure*. *Rot. Claus. de an.* 41 Ed. 3.

9. King *Henry* the Fifth, in a Suit before *Him* and *His Council* for the Titles of the Mannors of *Serre* and *S. Laurence*, in the Isle of *Thanet*, in *Kent*, took order for the Sequestering the Profits till the *Right* were tried, as well for avoiding the
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the breach of the Peace, as for prevention of waste and spoil. *Rot. Paten. Anno 6 Hen. 5.*

10. King *Henry* the Sixth commanded the Justices of the Bench to stay the Arraignment of one *Verney* of *London*, till they had other commandment from *Him* and *His Council*, because *Verney*, being indebted to the King and others, practised to be Indicted of Felony, wherein he might have his *Clergy*, and make his Purgation, of intent to defraud his *Creditors*, 34 *Hen. 6. Rot. 37. in Banco Regis.*

11. King *Edward* the Fourth and His *Council* in the *Star-Chamber*, heard the Cause of the Master and poor Brethren of *St. Leonards* in *Tork*, complaining, that *Sir Hugh Hastings*, and others, withdrew from them a great part of their living, which consisted chiefly upon the having of a Thraue of Corn of every Plough-Land within the Counties of *Tork*, *Westmerland*, *Cumberland*, and *Lancashire*. *Rot. Paten. de Anno 8 Ed. 4. Part. 3. Memb. 14.*

12. King *Henry* the Seventh and *His* Council, in the *Star-Chamber*, decreed, That *Margery* and *Florence Becket* should sue no further in their Cause against *Alice Radley*, Widow, for Lands in *Wolwich* and *Plumstead* in *Kent*; for as much as the Matter had been heard first before the Council of King *Ed. 4.* after that before the President of the Requests of that King, *Hen. 7.* And then lastly, before the Council of the said King, *1 Hen. 7.*

13. What is hitherto affirmed of the Dependency and Subjection of the Common Law to the Sovereign Prince; the same may be said as well of all Statute Laws; for the King is the sole immediate Author, Corrector, and Moderator of them also; so that neither of these two kinds of Laws are or can be any Diminution of that Natural Power which Kings have over their People, by right of Fatherhood; but rather are an Argument to strengthen the truth of it; for Evidence whereof, we may in some points consider the nature of Parliaments, because by them only all Statutes are Enacted.

XII. Though the Name of *Parliament* (as Mr. *Cambden* saith) be of no great Antiquity, but brought in out of *France*, yet our Ancestors, the *English Saxons*, had a Meeting, which they called, *The Assembly of the Wise*; termed in *Latin*, *Conventum Magnatum*, or, *Præsentia Regis, Procerumq; Prælatorumq; collectorum*. The meeting of the Nobility, or the Presence of the King, Prelates, and Peers Assembled; or in General, *Magnum Concilium*, or *Commune Concilium*; and many of our Kings in elder times made use of such great Assemblies for to Consult of important Affairs of State; all which Meetings, in a General sense, may be termed *Parliaments*.

2. Great are the Advantages which both the King and People may receive by a well-ordered Parliament; there is nothing more expresseth the Majesty and Supreme Power of a King, than such an Assembly, wherein all his people acknowledg him for Sovereign Lord, and make all their Addresses to him by humble Petition and Supplication; and by their Consent and Approbation do strengthen

strengthen all the Laws, which the King, at their Request and by their Advice and Ministry, shall ordain. Thus they facilitate the Government of the King, by making the Laws unquestionable, either to the subordinate Magistrates, or refractory Multitude. The benefit which accrews to the Subject by Parliaments, is, That by their Prayers and Petitions Kings are drawn many times to redress their Just grievances, and are overcome by their importunity to grant many things which otherwise they would not yield unto; for the Voice of a Multitude is easilier heard. Many Vexations of the people are without the knowledg of the King; who in Parliament seeth and heareth his people himself; whereas at other times he commonly useth the Eyes and Ears of other Men.

3. Against the Antiquity of Parliaments we need not dispute, since the more ancient they be, the more they make for the Honour of Monarchy; yet there be certain circumstances touching *the Forms* of Parliaments, which are fit to be considered.

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4. First, We are to remember, that until about the time of the Conquest, there could be no Parliaments assembled of the General States of the whole Kingdom of *England*, because till those days we cannot find it was entirely united into one Kingdom; but it was either divided into several Kingdoms, or Governed by several Laws. When *Julius Caesar* landed he found four Kings in *Kent*; and the *British* Names of *Dammonii*, *Durotriges*, *Belgæ*, *Attrebatii*, *Trinobantes*, *Iceni*, *Silures*, and the rest, are plentiful Testimonies of the several Kingdoms of *Brittain*, when the *Romans* became our Lords: as soon the *Romans* left us, the *Saxon* divided us into seven Kingdoms: when these *Saxons* were united into a Monarchy, they had always the *Danes* their Companions, or their Masters in the Empire, till *Edward the Confessor's* Days, since whose time the Kingdom of *England* hath continued United, as now it doth: But for a Thousand years before we cannot find it was entirely settled, during the Time of any one Kings Reign. As for Laws we find the middle parts of the Kingdom under the *Mercian* Law:
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The *West Saxons* were confined to the *Saxon* Laws; *Essex*, *Norfolk*, *Suffolk*, and other places, were vexed with the *Danish* Laws; The *Northumbrians* also had their Laws apart. And until *Edward* the *Confessor's* Reign, who was next but one before the Conquerour, the Laws of the Kingdom were so several and uncertain, that he was forced to Cull a few of the most indifferent and best of them, which were from him called *St. Edward's* Laws: Yet some say that *Eadgar* made those Laws, and that the *Confessor* did but restore and mend them. King *Alfred* also gathered out of *Malmutius* laws, such as he translated into the *Saxon* Tongue. Thus during the time of the *Saxons*, the Laws were so variable, that there is little or no likelihood to find any constant Form of Parliaments of the whole Kingdom.

XIII. A second Point considerable is, whether in such Parliaments, as were in the *Saxons* times, the Nobility and Clergy and the King's Council onely were of those Assemblies, or whether the Commons were also called; some are of Opinion, that though none of the

Mr. Lambards
Archeion.

the *Saxon* Laws do mention the Commons, yet it may be gathered by the *Saxon* word *þitena*, the Commons are intended to be of those Assemblies, and they bring (as they conceive) probable arguments to prove it, from the Antiquity of some Boroughs that were decayed before the Conquest, and yet send Burgesses, and from the prescription of those in *Antient Demesne*, not to send any Burgesses to Parliament, or pay Knights wages. If it be true, that the West-Saxons had a Custom to assemble Burgesses out of some of their Towns, yet it may be doubted, whether other Kingdoms had the same usage: but sure it is, that during the Heptarchy, the People could not Elect any Knights of the Shire, because England was not then divided into Shires.

These words are not in Sir R. M. S.

2. By the word *Witena*; it is very likely the *Thanes* were meant: who were the same in the *Saxon* times that the Barons were in the times of the Normans; as the *Saxon* *Ealdermen*, were those that were afterwards *Norman* *Earls*. As for those *Boroughs* that might be decayed at the time of the Conquest; it

it is possible that for their Antiquity, or some other reason, they might receive the Priviledg of sending Burgesſes after the Conqueſt. The like may be ſaid for Lands in Ancient *Demeſne*.

3. On the contrary, there be of our Hiſtorians that do affirm, that *Henry* the Firſt cauſed the Commons firſt to be Aſſembled by Knights and Burgeſſes of their own Appointment, for before his Time onely certain of the Nobility and Prelates of the Realm were called to Conſultation about the moſt Important Affairs of State.

4. What the Ancient Uſage of the *Normans* was, may beſt appear by ſuch Teſtimonies as *Mr. Selden* produceth in his *Titles of Honour*. And *William* the Conqueror in the 4th year of his Reign by the conſent of his *Barons* had twelve men out of every County who ſhewed what the Cuſtoms of the Kingdom were: and by the Aſſent of the *Barons* thoſe Cuſtoms were confirmed for Laws, which appears alſo by the Laws of King *Hen. 1.* where it is ſaid, I reſtore you the Laws of King *Edward* with thoſe

those amendments by which my Father amended them by the Counsel of his *Barons*. It is probable if there had been any Custom in the *Saxon* times to have summoned Knights and Burgesſes, that the *Conqueror* (who was ſo deſirous to know and confirm the Ancient Customs) would rather have called ſuch Knights and Burgesſes than XII. men out of every County. Mr. *Selden* citeth other proofs for other Parliaments, in King *Will. I.* his Reign: but in none of them any mention of any other but *Comites* and *Primates* and *principum conventus*, which were onely Earls and Barons.

5. In the ſecond year of K. *William II.* there was a Parliament by *Cunctis Regni Principibus*, and another which had *Quosque Regni Proceres*.

6. At the Coronation of King *Hen. I.* all the people of the Kingdom were called, and Laws then made *per commune concilium Baronum*. The third of *Hen. I.* *Proceres Regni* were called, and another Parliament a while after, *conſenſu Comitum & Baronum*. And in his tenth year, of *Comites & Proceres*; in the Eleventh year,

year, in a Parliament at Northampton were summoned, *Omnes qui tenebant de Rege in capite*. In the XXIII. year, Earls and Barons. The year following the same King held a Parliament or great Council with his Barons Spiritual and Temporal.

7. In the Fifth year of King John, *Rex & magnates convenerant*, and the Roll of that year hath *commune concilium Baronum meorum*, at Winchester. The Grand Charter made in the last year of King John, mentions *Majores Barones Regni, & qui in capite tenent de nobis*.

8. King Hen. 3. Anno 1225. called *Omnes Clericos & Laicos totius Regni*.

9. King Edw. 1. in his third year summoned the Commonalty of the Land.

10. King Edw. 2. in his 14th. year, had *tout le communalte de son Royaulme*, that is, all the Commonalty of his Realm.

11. By all these Testimonies it appears, that the ancientest and most usual Summons was of Earls and Barons, and that

and also by the King himself commanded.
 And the Ordinance of Inquest goeth ^{33 Ed. 11}
 thus, It is agreed and Ordained by the
 King himself, and all his Council.

4. The Statute made at York, 9 Edw. 3.
 saith, Whereas the Knights, Citizens, and
 Burgeses desired our Sovereign Lord the
 King in his Parliament, by their Petition,
 that for his Profit, and the Commodity of
 his Prelates, Earls, Barons, and Commons,
 it may please him to provide remedy; our
 Sovereign Lord the King desiring the pro-
 fit of his people by the assent of his Pre-
 lates, Earls, Barons, and other Nobles of
 this Realm summoned at this Parliament,
 and by the Advice of his Council being
 there, hath Ordained.

5. In the Parliament *primo Edwardi*
 the Third, where *Magna Charta* was con-
 firmed, I find this Preamble, At the Re-
 quest of the Commonalty by their Petition
 made before the King and his Council in
 Parliament by the assent of the Prelates,
 Earls, Barons, and other Great Men As-
 sembled, it was Granted.

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27 Ed. 3.

6. The *Commons* presenting a Petition unto the King, which the King's Council did mislike, were content thereupon to mend and explain their Petition; the Form of which Petition is in these words, *To their most undoubted Sovereign Lord the King, praying the said Commons, That whereas they have pray'd Him to be discharged of all manner of Articles of the Eyre, &c.. Which Petition seemeth to His Council to be prejudicial unto Him, and in Disinherison of His Crown, if it were so generally granted. His said Commons not willing nor desiring to demand things of Him, which should fall in Disinherison of Him or His Crown perpetually, as of Escheators, &c. but of Trespasses, Misprisions, Negligences, and Ignorances, &c.*

4 H. 3.

Fitz Herbert Dower.
11. 179.

7. In the time of King Henry the Third, an Order or Provision was made by the King's Council, and it was pleaded at the Common Law in Bar to a Writ of Dower. The Plaintiffs Attorney could not deny it, and thereupon the Judgment was *ideo sine die*. It seems in those days an Order of the Council-Board

Board was elther parcel of the *Common-Law* or above it.

8. The *Reverend* Judges have had regard in their *Proceedings*, that before they would resolve or give *Judgment* in new *Cases*, they consulted with the *King's Privy Council*. In the *Case* of *Adam Brabson*, who was assaulted by *R. W.* in the presence of the *Justices* of *Affize* at *Winchester*, the Judges would have the *Advice* of the *King's Council*: For in a like *Case*, because *R. C.* did strike a *Juror* at *Westminster* which passed in an *Inquest* against one of his *Friends*, *It was adjudged* by all the *Council* that his right hand should be cut off, and his *Lands* and *Goods* forfeited to the *King*.

9. *Green* and *Thorp* were sent by the Judges of the *Bench* to the *King's Council*, to demand of them whether by the *Statute* of 14 *Ed. 3. cap. 16.* a *Word* may be amended in a *Writ*; and it was answered, a *Word* may be well amended, although the *Statute* speak but of a *Letter* or *Syllable*.

39 Ed. 3.

10. In the Case of Sir *Tho. Oughtred*, Knight, who brought a *Formedon* against a poor Man and his Wife; they came and yielded to the *Demandant*, which seemed suspicious to the Court, whereupon Judgment was stayed; and *Thorp* said, *That in the like Case of Giles Blacket, it was spoken of in Parliament, and we were commanded, that when any like Case should come, we should not go to Judgment without good advice: therefore the Judges Conclusion was, Sues au Counseil; & comment ils voilent que nous devomus faire, nous volume faire, & au-terment nient en cest case. Sue to the Council, and as they will have us to do, we will: and otherwise not in this Case.*

XVIII. In the last place, we may consider how much hath been attributed to the Opinions of the *King's Judges* by Parliaments, and so find, that the *King's Council* hath guided and ruled the *Judges*, and the *Judges* guided the *Parliament*.

1. In the *Parliament* of 28 *Hier. 6.* The Commons made Suit, *That William*
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de la Poole, D. of Suffolke, *should be committed to Prison, for many Treasons and other Crimes. the Lords of the Higher House were doubtful what Answer to give, the Opinion of the Judges was demanded. Their Opinion was, that he ought not to be committed, for that the Commons did not charge him with any particular Offence, but with general Reports and Slanders.* This Opinion was allowed.

2. In another Parliament, 31 Hen. 6. (which was prorogued) in the Vacation the Speaker of the House of Commons was condemned in a thousand pound damages, in an Action of Trespass, and was committed to Prison in Execution for the same. When the Parliament was re-assembled, the Commons made suit to the King and Lords to have their Speaker delivered; the Lords demanded the Opinion of the Judges, whether he might be delivered out of Prison by priviledge of Parliament; upon the Judges answer it was concluded, *That the Speaker should still remain in Prison, according to the Law, notwithstanding the priviledg of Parliament, and that he was the Speaker:* Which Resolution

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was declared to the *Commons* by *Moyle*, the King's Serjeant at Law; and the *Commons* were commanded in the King's Name, by the Bishop of *Lincoln*, (in the absence of the Arch-bishop of *Canterbury*, then Chancellour) to chuse another Speaker.

Post Nati.
P. 22.

3. In *septimo* of *Hen. 8.* a question was moved in *Parliament*, *Whether Spiritual Persons might be convented before Temporal Judges for Criminal Causes.* There Sir *John Fineux*, and the other Judge, delivered their Opinion, *That they might and ought to be: and their Opinion was allowed and maintained by the King and Lords, and Dr. Standish, who before had holden it; the same Opinion was delivered from the Bishops.*

Ibidem.

4. If a Writ of Errour be sued in *Parliament* upon a Judgment given in the *Kings Bench*, the Lords of the higher House alone, (without the *Commons*) are to examine the Errours; the Lords are to proceed according to Law, and for their Judgment therein they are to be informed by the advice and counsel of the Judges, who are to inform them what

what the *Law* is, and so to direct them in their Judgment; for the Lords are not to follow their own Opinions or Discretions otherwise. *So it was in a Writ of Errour brought in Parliament by the Dean and Chapter of Lichfield, against the Prior and Convent of Newton-Panel, as appeareth by Record. See Flower Dew's Case, P. 1. H. 7. fol. 19.*

F I N I S.

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*The Conclusion by the Publisher
of this Edition.*

THIS Learned Gentleman *Sir Robert Filmer Baronet*, Overwhelmed with the Confusions and Disorders of the Times in which he lived, and died; seems to me rather to have ended than finished this excellent Piece, which he declined Publishing in his Life time, and did in all probability as little expect that it would have been Printed after his death: as perhaps it would never have been, if our late too near approaches to our former state of misery and disorder had not made it necessary.

2. This I conceive was the reason why it ends so abruptly without any Application to the Reader, or Recapitulation of what he had said, which yet are very useful in Books of this Nature,
which

which are not so much Speculative as Practical; whose main end is to make men better Subjects to their Prince, better Neighbours to each other in the State, and consequently better Servants to God, and Children to the Church.

2. May I then obtain the Readers Pardon, and not offend the Ghost of this Great Man, by attempting to supply this seeming defect the best I can, though not according to the dignity of the Work.

3. If God had been pleased to have Concealed from Man the Manner of his Rise, and the Order of the Creation, as No man could possibly have discovered from Natural Reason, without Revelation or Tradition, that all Mankind had at first sprung from one single person, Created single without another *Male*, and which is more wonderful and surprizing, without a *Female*, which was absolutely necessary for the preservation of a Mortal Creature, as Man Naturally is: I should perhaps have been as apt as any other Man to have supposed that

that Mankind was at first Produced in Multitudes, Males and Females, and that in several places at once. The Consequence of which Hypothesis would have been this, That as all these Original Men and Women owed no part of their Existence one to another, so they would have been under no obligation of submission either to other, but would have been so many independent Heads of Families distinct from each other, and no otherwise united but by the participation of one Common Nature, and as they derived their Beings from the same God, the Father of the Spirits of all Flesh.

4. And if after all this I had been asked how Government came into the World, I should have been apt enough to have replied, Necessity, Convenience, Force, or Fraud, Riches, or Poverty, had brought some of these independent Headsof Families to have submitted to others for their Mutual preservation and support.

5. But then I should have been forced to have supposed that this Original Anarchy

Anarchy had come into Order by degrees, that first the Natural strength of the Males had brought under and subdued the Females as the weaker Sex, and less able to resist; and then that all, or almost all the Males had united in a Democracy, till some part of them overpowering the rest, or else out-witting them, or by gaining over-great proportions of Wealth had purchased the affections and assistances of Many, and ingrossed the Power of the Whole in the Hands of a few of the best, and that these by the same means had in time been reduced from a smaller Number to yet smaller, till at last some Active Person had Mastered all the rest, and raised himself to a *Monarch*. And if any man would have supposed that there had been Stipulations and Compacts in all these steps between the Governing and the Governed Parties, I would not mightily have opposed it: though I have seldom seen men yield obedience to one another (I mean in great Parties or Bodies) till they are so far subdued by force as not to be able to exact an Accomplishment of their Articles, if the prevailing Party shall think fit to break them,

them, or are so strongly persuaded of the Fidelity, Truth, and Honesty of the Person so raised above them as to think all Contracts needless.

6. But then all the more Ancient Governments must of necessity have been Commonwealths, and the more Ancient they had been the more Democrattick; & Monarchy must have been the Daughter of Time, the last and youngest of all the Forms of Government, and in all probability, considering how eagerly all Mankind pursue, and how closely they hold their liberty; I must needs have supposed that as it was a great while ere any Monarchy had arisen, so there would have been but a few of them in the World, and that the Major part of Mankind (as upon this Hypothesis they well might) would have been still under the Government of Commonwealths, though infinitely various one from another.

7. But when I had brought this Hypothesis to the History of the World, and had there found that all the Ancient Governments had without exception
 . . . been

been all under Monarchies, that these the Older they were the smaller and more absolute still, that the Monarch who might have rode round his Kingdom in a Summers day, was yet as absolute in his little Territory as the greatest Prince ought in reason to desire. If I found that there had never been but a very few Commonwealths, and that they had all sprung out of Monarchies, and had all been at first Aristocracies, and then Democracies, and that at last, in spite of all their care and industry to prevent it, after a thousand Tumults, Insurrections, Seditions, Changes, and Civil Wars, they had all been swallowed up in a Monarchy again; I should have been a little inclined to have suspected the truth of this Theory.

8. Again, when I had observed the great Order and Oeconomy of the divine Providence in the World, how exactly the being and well being of every the Minuteest Insect is provided for before ever it comes into Life. I should have wondred that God should with such Exquisite Wisdom have provided the
World

World as an habitation for Man, and have put all the Creatures in it, under his subjection, and yet that after all this, Man, who is the Sovereign of all the rest, should have been created, and lived in a state of Anarchy a considerable time: Like an *Ignis fatuus*, roving from one place to another without order or design till he had perished, or been exposed alone to the next strong Beast, or more beastly Neighbour, that had pleased to have destroyed or driven him out of his poor mean Den or Cottage; and in the mean time he, his Wife and Children to have had nothing to have kept them together but Fear and Interest, God in the mean time standing by to see the Event, and giving no one of these the least Authority to Command, nor Power to Punish, any more than he has given brute beasts.

9. Now suppose whilst I had been thus hampered in my thoughts, some good Friend had first brought me the Bible, or History of the Creation in an intelligible Language, and having read it over, I had next fell upon *Sir Robert Filmar's Patriarcha*.

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10. The first thing I should have been startled at would have been his Contradicting the *Tenet* I had imbibed, That all Mankind was Naturally endowed and born with a freedom from all subjection, &c. but when I had read on, and considered the Candor and Sincerity of this great Person, and conferred his Reasons with the History of the Bible, I must then (supposing I had stood free from the Night of Prejudice, and Prepossession, and the fetters of Interest) have necessarily Concluded, that so much of my former Hypothesis, as stood upon the Multitude of the first Peoplers of the Earth, was suspicious, if not false, and that the History of the Creation, laid down by *Moses*, gave more Honour to God, Safety to Princes, and Security to Subjects; was more agreeable to the Nature of things, the History of the first Ages, the Present and Ancient State of Mankind than the former, and consequently that it was true, and the other false.

First, The History of the Creation, as related by *Moses*, gives more honour to God.

For

For had Mankind been produced at first in Multitudes, as the Brutes were, and without any dependence upon, or derivation each from other, or from one first Principle; then must there have been a state of Anarchy, which is the very worst condition that can betide Mankind before there was any Government; and this too must have lasted till this new formed Mass had been able to have formed themselves into some sort of Regular Society. And if ever this had hapned, then should the Honour of it have been due to man, and God should have been deprived of one of his most honourable Titles, the King of Kings, and Author of all the Lawful Powers on Earth.

Whereas by giving Being to but one single man, *Adam*, and forming one Woman, *Eve*, of one of his Ribs, all the Mass of Mankind that followed were born in Subjection; and Government was no artificial humane invention, but a Natural Consequence of the excellent wisdom and foresight of God, who as he took care for the subsistence of this Creature by the forming the whole,

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and every part of the Universe in so excellent a disposition and order for his subsistence, and gave him a Majesty and Sovereignty over all his fellow Creatures in this Lower Region: So by this Means he prevented all Confusion, Violence and Disorder amongst themselves, which would otherwise have made Man more miserable than the very Brutes.

Secondly, By this Means all Mankind became related and of Kindred as having one common Father, which is a strong obligation to all the Offices of mutual Love, Aid, Friendship and Assistance, which are absolutely necessary for the well-being of Mankind: Whereas the other way would have left all at Liberty to have used any other person they could have Conquered as a perfect Foreigner in Nature; and consequently have left some in the utmost degree of Misery and Oppression, and others in a liberty to treat them so without breach of any Natural Obligation. But this did not become the *Philanthropie* of God, who, as he is the first Father of Mankind, was
to

to express his Care and Kindness to every individual person, by putting him into such a condition that it should be the duty of the greatest of Men to treat the meanest, not as a Brute, but as a Child, and all his Equals; not as Foreigners of another Race, but as Brothers.

Thirdly, The Creation of Mankind in independent multitudes would in all probability have at first introduced Republicks, or Many Headed Governments, which must at first too, before Mankind had been versed in the Arts of Government, have been full of Confusion, distrust, and Cruelty, there being no Natural Ligament to have united the first founders together. Supposing they had had one Speech (which can never be rationally supposed) but it would have been just like the shuffling of a number of *Europeans*, *Affricans*, and *Indians* together, who would not have pieced of many years, and then would have been infinitely jealous and distrustful each of others, and dissatisfied with the least inequality in their fortunes, which could not have been

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prevented ;

prevented; whereas by this way *Adam* became the Sovereign of Mankind as he was their Father, and it was not possible but he should love his Children, though they were never so numerous, and they were so habituated from their Infancy to revere and fear him, that it was very difficult for them not to Love and Honour him as long as he lived, and his Successor too after him, who must be Father to many of them, and Brother or Uncle to the rest: And it became God, who was the *Great King*, to settle thus amongst men, whom he made after his own Image, that Government which he had established in Heaven.

Καὶ διὰ τούτ' ἰσχυ-
ρίζεται ὁ ἀριστοκράτης,
ὅτι πάντες οὗτοι ἀνθρώποι
πολύ διαφέρου-
ντες κατ' ἀρετὴν, ἄλλοι
τε καὶ τὸ πᾶν μὴ κατὰ δει-
κνύσας πόλεις. *de Rep. l.*
III. c. 11.

Fourthly, *Aristotle* sup-
poseth that the reason why
all the most Ancient Go-
vernments were Monar-
chies was because there were
few men in the first Societies
fit to govern. But this is rather a rea-
son for Olygarchies or Aristocracies
than for Monarchies. And had all the
Ancient Monarchies been introduced
by fraud or force, they would have
been

been pure despotick and absolute Tyrannies which are the worst sort of Monarchies; and had they proceeded from Pacts and Agreements they would in all probability have been at least Elective Monarchies, which is next the despotick, the worst and most uncertain and weak form of Monarchies. Whereas by this means the first Government that was in the World was a Paternal Monarchy, Successive and Hereditary, which is the very best Form of Government, that after so many thousand of years as the World has now lasted, the wit of man can invent. And it became the Wisdom of God, who only is able to see at once through all the remotest accidents to which his Works are subject to introduce that Form of Government at first by a natural and easie method which was the very best, and which Mankind could never have arrived at without him: For if he had not at first made all Mankind of one blood, and derived them from one man, there could have been no such thing as a real Natural Monarchy; and if the first had not been such, all that had followed could have only been so in a fiction of

M 3 Law,

Law, which having no foundation in Nature must have been weak and Airy, and not solid enough to have born the weight of such a Superstructure as Government is.

II. This Hypothesis affords most safety to Princes.

I. For if Mankind was at first produced, and for a long time continued in a state of Anarchy, and at last came out of it, and formed themselves into Civil Societies, by Constituting Princes and Magistrates under certain Conditions and Compacts: Then is Government the Creature of the *People*, and liable to be controuled, and destroyed, altered, and changed at their Wills and Pleasures; for if they be the Supreme and Ultimate *resort*, though they may do wrong by an unjust Sentence, yet there lies no appeal from them, and their Act is valid when it is not just; and Consequently whoever they set up over them will have a right to Govern, which sets all Princes at the Mercy of the *Many*, who are ill Judges.

But

But on the other side the Sacred Story makes the introduction of Government to have been the Act of God, and that settled by so divine and natural a Method as exceeded the Wit of Man to find it out when the History of the Creation was once impaired, and the memory of it in great part defaced. For though the Ancient Philosophers and Historians agree that God Created Male and Female at first, yet none of them suppose that the foundation of Mankind was laid in a single Pair, much less in a single Person, and yet this was the most natural and easie way of bringing Man into the World in Society and under Government; for this first Man being by this made Superiour to his Wife, became the indisputable Sovereign of all his Children and Grand-children as long as he lived, and would have been so to this day if he had lived: But however living above nine hundred years, Government was strangely established in the World before he left it.

*Arist. de
Oecon. Dr.*

Rep. l. 1.

c. 1.

Platon 3

de la Re-

publique

liv. 2.

chap. 5.

Arist. de

Rep. l. 1.

c. 1.

2. This sets Princes above the reach of their Subjects, for as the first of

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them

them was the Son of God, by Creation, so all that have succeeded lawfully, are truly the Sons of the *Most High*: the Representatives of God, and the Ministers of his Kingdom amongst Men, and consequently accountable to none but him, who was their Author and Founder, and is still their Preserver,

3. As God is the Author of Government, so he is obliged to be the Asserter and Preserver of it; if Princes had been the Creatures of the *Mary*, they could not so intirely have relied upon God for their safety: But now they are lodged in the Arms of the Almighty, and may with the greatest confidence make their application to him, and comfortably expect his Assistance and Protection.

4. The People are by this better deterred from Rebellion, than by any other means whatsoever; for if they are once thoroughly convinced that their Prince is the Minister of God, the Father of their Country, the only unaccountable Person, to any but God, and that God is bound in honour to Assert him against all

all that shall rise up against him, then is all violent and undutiful resistance a Rebellion against God Almighty, and can never go unpunished in this or the next World, be the cause or pretence what it will. This awes and appeaseth them, keeps them quiet, and safe too.

III. This brings me to my third Article, which is the Security of the Subjects.

1. For first it secures Subjects from the temptations to Rebel, which is ever attended with the greatest Calamities that Mankind is subject to, whether they prevail, or are mastered by their Sovereign at last, as Sir R. F. has learnedly proved.

2. This teaches Princes, as well as Subjects, their duty; for as God is the Author of a Paternal Monarchy, so he is the Author of no other. He introduced all but the first Man into the World under the subjection of a Supreme Father, and by so doing has shewn that he never intended there should be any other Power in the World,

World, and whatever Authority shall rise above that Mark is accountable to him. So that Princes are bound to treat their Subjects as their Children, with Mercy and Lenity, as far as they are capable of it, and not as their Brutes. The Dominion God gave Man over the Beasts, and all the irrational Animals, is much greater, and of quite another Nature than what he gave Fathers over their Children: And Servants or Slaves at first were (and I think still ought to be) treated as younger Children, but as Children still. And Conquered People, that are in some Countries treated as Slaves, and but a little better than Brutes, have certainly a very good Appeal to the Tribunal of God against their Princes, who will certainly right them in another World, if they suffer patiently in this. If it be the Character of a good man that he is merciful to his Beast, I doubt not but the very *Brutes* have a right to be governed with Mercy and Justice, and that God, who is their Creator as well as Ours, will punish cruel men if they Tyrannize over them, and much more if any man shall exercise cruelty to another

How

another man, who is of the same not only Nature but Blood.

Whereas all other Hypothesis leave the Prince at liberty to make his bargain with his Subjects as well as he can, and if they be brought by force or fraud to an entire submission at discretion, they may then be treated accordingly, and must stand to their Compact, be the terms never so unequal, and then the Case of a Man and a Brute may differ very little; and if the Subject may resist, the Prince may take care to prevent it, and the War may be Just on both sides, which is impossible.

3. This Hypothesis of Sir R. F. creates a Mutual Trust and Confidence betwixt the Prince and People, and that fatherly love and filial duty and reverence that is the very Soul of all Government: For when the Prince is once secure of the duty and affection of his Subjects, not only his, but their lives will be the more easie and pleasant; For what is it that hath made Princes place their security in standing Armies and Guards of Foreigners but a distrust
of

of their Subjects Loyalty? And yet this remedy has often proved destructive to these Princes, and has ever made the condition of those Subjects miserable. *Aristotle* makes this the only difference betwixt a Despotick and a Paternal Monarchy, that the Guards of the former are Foreigners, and of

Nam reges armis custodiunt Civis; tyrannos Peregrini. Nam illi legitime & voluntibus, Hi vero imperant invitis. de Rep. lib. 3. c. 10.

the latter, Natives. But though this will not hold generally, as appears by the Turkish and French Government, yet this is certain, that all those Governments that are maintained by Armies, too strong for the Subjects in general, are uneasie, and degenerate into Despotick Monarchies, and are unsafe both to the Prince and People.

Hengistum cum esset vir astutus, And some of our own Historians ascribe the Ruine of the *Britans* by the *Saxons* to

compta Regis amicitia, ipsum in hunc sermonem, Adjvit. Domine mi Rex, undique inquietant te inimici tui, atque minantur tibi, dicant quod se conducent, ex Armorico tractu Aurelium Ambrosium, at se deposito ipsum in regem promoveant. Si placeat ergo, Mittamus in Patriam nostram, ut invitemus ex ea milites at numerum noster augeatur. Rex igitur equo Concilio & petitioni adquiescens. Ec. Westman. ad An. 456. Now there was two reasons for this fear, *Vortigern* was an Usurper upon *Aurel. Amb.* and had infinitely disgusted the *Britans* by marrying *Roxen* the Daughter of *Hengist* a Heathen Lady, and was suspected to have murdered *Constant.* the former K. of *Britan* besides

Vortigerns

Vortigerns distrust of the *Britans* his Subjects, and endeavouring thereupon to support himself with over numerous Guards of the *Saxons*, which at last proved the ruine of that Prince, and of all his People.

IV. This Hypothesis is more agreeable to Nature, for seeing Mankind could not be introduced into the World but by Creation of a Male and Female at first of perfect Stature, and able to shift, and when once the two Sexes had a Being, it was possible for them to produce a number able to fill the World, the first could only be the Effect of an Almighty Power, but the other the replenishing of the earth by Propagation might be the effect of a Natural Power. Therefore it was not Necessary nor Convenient that any great Number of Men should be produced at first; not necessary, because one Pair was sufficient; not convenient, because these first Created men would have had none, or but a weak Union. And consequently, it would have been very difficult to have

Ὅντι τὰ βίω μίξας
 ἢ φιλίας ἢ θείας, ἀ-
 παντα φαιδρῶς, καὶ γλυ-
 κῶς, καὶ σεσφιλῶς τῶν
 τῆς πατρὸς, καὶ συνάπο-
 λαύσεως ἐπὶ τῆς. Plat.
 de discipulando Adula-
 tore.

have brought them into such a subjection as was necessary, and Anarchy would have been then introduced instead of Order, Confusion instead of Peace, Distrust and Jealousie instead of Love and Confidence, and so these new-made

*Ovid. Metamorph. lib. 3.
fav. 1. v. 120.*

— non longius illo
vivit, & expirat, modo
quas acceperat, Ausus:
exemploque pari furit
omnis turba; saepeque
marte cadunt subiti per
mutua vulnere fratres.

Mortals, like *Cadmus* his Race, should have begun a War with each other so soon as ever they entered the World; and that common Nature, which was a principle of Union to those that proceeded from the same

Bed, would have been a cause of disorder if many independent Heads of Mankind had been made together.

V. This Hypothesis gives a reason why all Mankind were at first under Monarchies, as all Historians agree in this, that originally so they were; and that Kingdoms at first were small, and governed with much Lenity and Goodness, insomuch as most Nations Deified their most Ancient Kings for their goodness; which if these men had usurped upon them, or been their (the Peoples) Creatures, and only Elected by

by them, would hardly have come to pass.

1. Whereas nothing is more easie than that a Father, in those first Ages when the World was empty of men, might produce first a large Family, and then that might grow into a Village, and that Village in time into a small City, and when there was no necessity to part them far asunder, a little Kingdom might easily be supposed thus to arise in a few Ages, their Neighbours having neither much more strength, nor any temptation to hinder their rise: And when one place was Peopled, they might go a little further, and take up the next convenient spot of uninhabited Land, and begin another Kingdom after the same manner. And any man must in reason suppose these Kingdoms would be small and numerous; and the People being the Children and Descendants of these first Kings must be treated with great kindness by them, and have the strongest Veneration and Love for their memory.

*Arist. de Rep. l. i. c. i.
Μεγαλὸν δὲ καὶ πόσιν
τοῖς καὶ καὶ ἀποικίαι
οὐκ ἔστιν. Διὸ καὶ τὸ
πολίτευμα ἐκαστοῦ τοῦ
πολέως, καὶ οὐκ ἔστι τὸ
ἐκαστοῦ ἐκ βασιλευσίων
καὶ οὐκ ἔστι τὸ ἐκαστοῦ
ἐκ βασιλευσίων.*

VI. And

VI. And not only the Ancient Histories, but all our late discoveries have found Mankind in the most distant parts of the World under Monarchies, and no other Form of Government, and those Kingdoms generally very small, and ruled by the Wills of their Princes, with none or few Laws, which shew that this Paternal Power has been propagated with Mankind, and has gone round the Globe of the Earth.

1. And whereas the general Clamour is first, that this Doctrine tends to make Princes Tyrants, by setting them out of the reach of violence from their Subjects, and making them accountable to none but God. This is not so, for if Princes do consider it, they must know that they are the Fathers of their People, and ought to treat them accordingly.

2. Nor are Subjects put thereby in a worse Condition, but in a better: For by their submission and dutiful behaviour they may soften the heart of the most

that Kings did vary their Summons at their pleasure, which may be further confirmed out of Mr. *Cambden*; who speaking of *Barons*, saith, that King *Hen. 3.* out of a great Multitude, which was Seditious and Turbulent, called out the best of them by his Writ to Parliament. And the prudent King *Edward* the First, summoned always those Barons of Ancientest Families that were most Wise, to his Parliaments, but omitted their Sons after their deaths, if they were not answerable to their Parents in Understanding.

12. King *Henry* the Third commanded *Duos milites gladio cinctos, magis discretos & idoneos* to be chosen to serve for Knights of the Shire, and it is the acknowledgment of Mr. *Selden*, that the first Writs we find accompanied with the other circumstances of a Summons to Parliament, as well for the Commons as Lords is in the 49th year of King *Hen. 3.* Amongst all those proofs which I can find produced for the Antiquity of Parliaments, I see nothing for the chusing of Knights and Burgeses by popular Elections before
K the

the times of King *Henry* the Third. Although King *Henry* the First, were the first that summoned all the people: and it had been more for the Honour of Parliaments, if a King, whose Title to the Crown had been better than that of King *H. I.* had been Author of the first calling the people to Parliament; because he made use of it for his unjust Ends. For thereby he secured himself against his Competitor and Elder Brother, by taking the Oaths of the Nobility in Parliament; and getting the Crown to be settled upon his Children. And as the King made use of the people, so they, by Colour of Parliaments, served their own turn; for after the Establishment of Parliament by strong hand, and by the Sword, they drew from him the *Great Charter*, which he granted the rather to flatter the Nobility and people, as *Sir Walter Raleigh* in his *Dialogue of Parliaments* doth assure, in these words: *The great Charter was not Originally granted Regally and Freely: for Henry the First did but Usurp the Kingdom, and therefore, the better to assure himself against Robert his Elder Brother, he flattered the Nobility and People with*
their

their Charters; yea, King John, that Confirmed them, had the like respect, for Arthur Duke of Britain was the undoubted Heir of the Crown, upon whom King John Usurped, and so to conclude, these Charters had their Original from Kings de facto, but not de jure—— The Great Charter had first an obscure Birth by Usurpation, and was Secondly fostered and shewed to the World by Rebellion.

XV. A third consideration must be, that in the Form of Parliaments, instituted and continued since King Henry the First, and K. Hen. 3ds. time, is not to be found the Usage of any Natural Liberty of the People; for all those Liberties that are claimed in Parliament are the liberties of Grace from the King, and not the Liberties of Nature to the people; for if the liberty were Natural, it would give power to the Multitude to assemble themselves *When* and *Where* they please, to bestow Sovereignty, and by Pactions to limit and direct the Exercise of it. Whereas, the Liberties of Favour and Grace, which are Claimed in Parliament, are restrained both for Time, Place, Per-

K 2

sons

sons, and other Circumstances, to the Sole pleasure of the King. The People cannot Assemble themselves, but the King, by his Writs, calls them to what place he pleases; and then again Scatters them with his Breath at an instant, without any other Cause shewed them than his Will. Neither is the whole Summoned, but onely so many as the King's Writs appoint. Nor have the whole people Voices in the Election of Knights of the Shire or Burgesses, but only Free-holders in the Counties, and Freemen in the Cities and Burroughs; yet in the City of *Westminster* all the House holders, though they be neither Free-men nor Free-holders, have Voices in their Election of Burgesses. Also during the time of Parliament, those priviledges of the House of *Commons*, of freedom of Speech, Power to punish their own Members, to examine the proceedings and Demeanour of Courts, of Justice and Officers, to have access to the King's Person, and the like, are not due by any Natural Right, but are derived from the Bounty or Indulgence of the King, as appears by a solemn Recognition of the House; for at the opening of the Par-

Parliament, when the Speaker is presented to the King, he, in the behalf and Name of the whole House of Commons; humbly craves of His Majesty, That He would be pleased to grant them their *Accustomed Liberties* of freedom of Speech, of access to his Person, and the rest. These priviledges are granted with a Condition implied, That they keep themselves within the Bounds and Limits of Loyalty and Obedience; for else why do the House of *Commons* inflict punishment themselves upon their own Members for transgressing in some of these points; and the King, as Head, hath many times punished the Members for the like Offences. The Power which the King giveth, in all his Courts, to his Judges or others to punish, doth not exclude Him from doing the like, by way of *Prevention, Concurrence, or Evocation*, even in the same point which he hath given in charge by a delegated Power; for they who give Authority by Commission, do always retain more than they grant: Neither of the two Houses claim an *Infallibility* of not *Erring*, no more than a General Council can. It is not impossible but that the greatest

may be in fault, or at least Interested or Engaged in the *Delinquency* of one particular Member. In such Cases it is most proper for the Head to correct, and not to expect the *Consent* of the Members, or for the Parties peccant to be their own Judges. Nor is it needful to confine the King, in such Cases, within the Circle of any one Court of Justice, who is Supreme Judg in all Courts. And in rare and new Cases rare and new Remedies must be sought out; for it is a Rule of the Common Law, *In novo Casu, novum Remedium est apponendum*: and the Statute of Westminst. 2. cap. 24. giveth Power, even to the Clerks, of the Chancery, to make New Forms of Writs in New Cases, lest any Man that came to the King's Court of Chancery for help, should be sent away without Remedy: A President cannot be found for every Case; and of things that happen seldom, and are not common, there cannot be a Common Custom. Though Crimes Exorbitant do pose the King and Council in finding a President for a Condict Punishment, yet they must not therefore pass unpunished.

2. I have not heard that the people, by whose Voices the Knights and Burgesſes are choſen, did ever call to an account thoſe whom they had Elected; they neither give them Inſtructions or Directions what to ſay, or do in Parliament, therefore they cannot puniſh them when they come home for doing amiſs: If the people had any ſuch power over their Burgeſſes, then we might have ſome colour to call it, The Natural Liberty of the people, *with a miſchief*. But they are ſo far from puniſhing, that they may be puniſhed themſelves for intermeddling with Parliamentary Buſineſs; they muſt onely chuſe, and truſt thoſe whom they chuſe to do what they liſt; and that is as much liberty as many of us deſerve for our irregular Elections of Burgeſſes.

XV. A fourth Point to be conſider'd, is, that in Parliament all Statutes or Laws are made properly by the King alone, at the Rogation of the people, as His Majeſty King *James*, of happy memory, affirms in His true Law of free Monarchy; and as Mr. *Hooker* teacheth

K 4

us,

us, *That Laws do not take their constrain-
ing force from the Quality of such as devise
them, but from the Power that doth give
them the Strength of Laws: Le Roy le
Veult*; the King will have it so, is the
Imperative Phrase pronounced at the
King's passing of every Act of Parliament:
And it was the ancient Custom for a long
time, till the days of King *Henry* the
Fourth, that the Kings, when any Bill
was brought unto them, that had passed
both Houses, to take and pick out as
much or as little thereof as they pleas-
ed, and to leave out what they liked
not, or to alter it, and so much as they
chose or set down was Enacted for a
Law; which seems to prove that in An-
cient times the Assent of the Commons
was not always requisite; for though
their Assent may seem to Ratifie, yet it
doth not follow that therefore their Dis-
sent must nullifie an Act of Parliament,
those may have deliberative Voices
which have not always a Negative:
*but the Custom of the later Kings hath
been so gracious, as to allow always of
the entire Bill as it hath passed both
Houses.*

These
words are
not in the
M. S.

XVI. The

XVI. The *Parliament* is the King's Court, for so all the oldest Statutes call it, *the King in his Parliament*: But neither of the two Houses are that Supreme Court, nor yet both of them together; they are onely Members, and a part of the Body, whereof the King is the Head and Ruler. The King's Governing of this Body of the *Parliament* we may find most significantly proved, both by the Statutes themselves, as also by such *Presidents* as expressly shew us, how the King, sometimes by himself, sometimes by his Council, and other times by his Judges, hath over-ruled and directed the Judgments of the Houses of *Parliament*; For the King, we find that *Magna Charta*, and the *Charter of Forrefts*, and many other Statutes about those times, had onely the Form of the King's Letters-Patents, or Grants, under the Great Seal, testifying those *Great Liberties* to be the sole Act and Bounty of the King: The words of *Magna Charta* begin thus: *Edward, by the Grace of God, &c. To all our Arch-Bishops, &c. and our Faithful Subjects, Greeting. Know ye, that We, of Our meer free-Will, have granted to*
all

all Free-men these Liberties. In the same style goeth the *Charter of Forrests*, and other Statutes. *Statutum Hiberniæ*, made at *Westminster*, 9. *Februarii* 14. *Hen. 3.* is but a Letter of the King to *Gerrard*, Son of *Maurice*, Justice of *Ireland*. The Statute *de anno Bissextili* begins thus: *The King to His Justices of the Bench, Greeting, &c. Explanatio- nes Statuti Glocestriæ*, made by the King and his Justices onely, were received al- ways as Statutes, and are still printed amongst them.

6 E. 1.

2. The Statute made for Correction of the 12th Chapter of the Statute of *Glo- ceſter*, was Signed under the Great Seal, and ſent to the Juſtices of the Bench, after the manner of a Writ Patent, with a certain Writ cloſed, dated by the King's Hand at *Westminster*, requiring that they ſhould do, and Execute all and every thing contained in it, although the ſame do not accord with the Statute of *Gloceſter* in all things.

3. The Statute of *Rutland*, is the King's Letters to his *Treasurer* and *Barons* of his *Exchequer*, and to his *Chamberlain*.

The

4. The Statute of *Circumspecte Agatis* runs: *The King to his Judges sendeth Greeting.*

5. There are many other Statutes of the same Form, and some of them which run onely in the Majestique Terms of, *The King Commands*, or, *The King Wills*, or, *Our Lord the King hath established*, or, *Our Lord the King hath Ordained*: or, *of His Especial Grace hath granted*: Without mention of Consent of the Commons or People; insomuch that some Statutes rather resemble Proclamations, than Acts of Parliament: And indeed some of them were no other than meer Proclamations; as the *Provisions of Merton*, made by the King at an Assembly of the *Prelates* and Nobility, for the *Coronation* of the King and his Queen *Eleanor*, which begins, *Provisum est in Curia Domini Regis apud Merton*. Also a Provision was made 19. *Hen. 3. de Assisa ultimæ Presentationis*, which was continued and allowed for Law, until *West. 2. an. 13. Ed. 1. cap. 5.* which provides the contrary in expresse words: This Provision begins, *Provisum fuit coram Dom. Rege, Archiepiscopis,*

scopis, Episcopis & Baronibus, quod, &c.
 It seems Originally the difference was not great between a *Proclamation* and a *Statute*; this latter the King made by the *Common Counsel* of the Kingdom. In the former he had but the advice only of his *Great Council* of the *Peers*, or of his *Privy Council* only. For that the King had a great Council, besides his Parliament, appears by a Record of 5. K. *Hen. 4.* about an Exchange between the *King* and the *Earl of Northumberland*: Whereby the *King* promisseth to deliver to the *Earl* Lands to the value, &c. by the advice of Parliament, or otherwise by the Advice of his *Grand Council*, and other *Estates* of the *Realm*, which the King will *Assemble*, in case the *Parliament* do not meet.

6. We may find what Judgment in later times Parliaments have had of Proclamations, by the Statute of 31. of King *Hen. 8. cap. 8.* in these words: *Forasmuch as the King, by the advice of his Council, hath set forth Proclamations, which obstinate Persons have contemned; not considering what a King by his Royal Power may do: Considering that sudden Causes and Occasions fortune many times, which*
 do

do require speedy Remedies, and that by abiding for a Parliament, in the mean time might happen great prejudice to ensue to the Realm: And weighing also, that his Majesty, which by the Kingly and Regal Power given him by God, may do many things in such Cases, should not be driven to extend the Liberties, and Supremity of his Regal Power, and Dignity, by wilfulness of froward Subjects: It is therefore thought fit, that the King with the Advice of his Honourable Council should set forth Proclamations for the good of the People, and defence of his Royal Dignity as necessity shall require.

7. This Opinion of a House of Parliament was confirmed afterwards by a Second Parliament, and the Statute made ^{34 H. 8.} ^{c. 23.} Proclamations of as great validity, as if they had been made by Parliament. This Law continued until the Government of the State came to be under a Protector, during the Minority of Edward the Sixth, and in his first year it was Repealed.

8. I find also, that a Parliament in the 11th year of Henry the Seventh, did so great

great Reverence to the Actions, or Ordinances of the King, that by Statute they provided a Remedy or Means to levy a *Benevolence* granted to the King, although by a Statute made not long before all Benevolences were Damned and Annulled for ever.

9. Mr. *Fuller*, in his Arguments against the proceedings of the *High-Commission Court*, affirms, that the Statute of 2. *H. 4. cap. 15.* which giveth Power to Ordinaries to Imprison and set Fines on Subjects, was made without the Assent of the Commons, because they are not mentioned in the Act. *If this Argument be good, we shall find very many Statutes of the same kind, for the Assent of the Commons was seldom mentioned in the Elder Parliaments. The most usual Title of Parliaments in Edward the 3d. Rich. 2. the three Henries 4, 5, 6. in Edw. 4. and Rich. 3. days, was: The King and his Parliament, with the Assent of the Prelates, Earls, and Barons, and at the Petition, or at the special Instance of the Commons, doth Ordain.*

10. The

10. The same Mr. Fuller saith, that the 5. Ric. 2. Statute made against *Lollards*, was without the Assent of the Commons, as appears by their Petition in these words: *The Commons beseech, that whereas a Statute was made in the last Parliament, &c. which was never Assented nor Granted by the Commons, but that which was done therein, was done without their Assent.*

XVII. How far the King's Council hath directed and swayed in Parliament, hath in part appeared by what hath been already produced. For further Evidence, we may add the Statute of *Westminster*: The first which saith, *These be the Acts of King Edward 1. made at His First* 3 Ed. 1. *Parliament General, by His Council, and by the assent of Bishops, Abbots, Priors, Earls, Barons, and all the Commonalty of the Realm, &c.* The Statute of *Bygamy* 4 Ed. 1. saith, *In presence of certain Reverend Fathers, Bishops of England, and others of the King's Council, the Constitutions unwritten were recited and afterwards published before the King and his Council, forasmuch as all the King's Council, aswell Justices as others, did agree, that they*
should

13 Ed. 1. *should be put in Writing, and observed.*
 The Statute of Aton Burnel saith, *The*
 King, for Himself, and by His Council,
 hath Ordained and Established.

28 Ed. 1. 2. *In Articulis super Chartas;* when the
 Great Charter was confirmed, at the
 Request of his Prelates, Earls and Barons,
 we find these Passages. 1. *Nevertheless*
the King and His Council do not intend by
reason of this Statute to diminish the King's
Right, &c. 2. *And notwithstanding all*
these things before mentioned, or any part
of them; both the King and his Council,
and all they that were present at the making
of this Ordinance, will and intend that the
Right and Prerogative of his Crown shall
be saved to him in all things. Here we
 may see in the same Parliament the Char-
 ter of the Liberties of the Subjects con-
 firmed, and a saving of the King's Prero-
 gative. Those times neither stumbled
 at the Name, nor conceived any such
 Antipathy between the Terms, as should
 make them incompatible.

39 Ed. 1. 3. The Statute of Escheators hath this
 Title, *At the Parliament of our Sovereign*
Lord the King, by his Council it was agreed
and

most cruel Prince that does usually happen in the World; whereas by resistance they may inrage the mildest to their Ruine.

3. So that upon the whole I think Reason it self will conclude that this way of solving the first Rise of Government is true; and that it is the duty of all, who by the blessing of God are under Paternal Monarchies, to be very thankful for the favour, and to do the utmost that in them lies to preserve and transmit that best Form of Government to their Children after them.

4. And, surely there is no Nation under Heaven has more reason than the English who are under a Paternal Monarchy, which has taken the best care that is possible to secure them, not only from oppression and wrong, but from the very fear of it.

5. And, which is an addition to our obligations, when of late years the People were Cajoled into a Rebellion against the best and mildest of Princes

N — upon

upon a pretence that their Liberties were in danger of being taken from them, and an Arbitrary Government set up with a standing Army: Their Rebellion verified all their fears, and they fell under an Arbitrary Tyranny which had no right, nor shewed them any Mercy. And this was brought upon them by their fears; their deliverers, and their Army, their Representatives, whom they set up against their King enslaved them, and it it was Gods great mercy that ever we recovered our former state of Liberty, which Commenced with his late Majesties Restauration, and may last till we forfeit it again by another Rebellion, if we our selves do not destroy it by our folly.

FINIS

THE
COPY
OF A
LETTER

Written by the Late Learned

Dr. PETER HEYLYN,

TO

Sir *Edward Filmer*, Son of the
Worthy Author, concerning this
Book and his other Political
Discourses.

SIR,

HOW great a Loss I
had in the death of
my most dear and
honoured Friend, your de-
ceased Father, no man is

N 2 able

able to conjecture, but he
that hath suffered in the
like. So affable was his
Conversation, his Discourse
so rational, his Judgment so
exact in most parts of
Learning, and his Affecti-
ons to the Church so Ex-
emplary in him, that I ne-
ver enjoyed a greater Feli-
city in the company of any
Man living, than I did in
his: In which respects I
may affirm both with Safe-
ty and Modesty, that we
did not only take *sweet*
Counsel together, but walked in
the House of God as Friends:
I

I must needs say, I was prepared for that great Blow, by the loss of my Preferment in the Church of *Westminster*, which gave me the opportunity of so dear and beloved a Neighbourhood ; so that I lost him partly before he died, which made the Misery the more supportable, when I was deprived of him for altogether. But I was never more sensible of the infelicity, than I am at this present, in reference to that satisfaction, which I am sure he could have given

ven the Gentleman whom
I am to deal with: His
eminent Abilities in these
Political Disputes, exem-
plified in his Judicious Ob-
servations upon *Aristotles*
Politiques; as also in some
passages on *Greene*, *Flinton*,
Hobbs, and other of our late
Discourfers about Forms
of Government, declare
abundantly how fit a Man
he might have been to
have dealt in this cause,
which I would not wil-
lingly should be betrayed
by unskilful handling:
And had he pleased to
have

have suffered his Excellent
Discourse called *Patriarcha*
to appear in Publick, it
would have given such
satisfaction to all our
great Masters in the Shools
of *Politie*, that all other
Tractates in that kind,
had been found unne-
cessary,

Vide Certamen Epistolare. 386.

E I N I S
